

1                   A bill to be entitled  
2           An act relating to adoption; amending ss.  
3           39.461, 39.464, 39.469, F.S., relating to the  
4           petition and grounds for terminating parental  
5           rights and powers of disposition; removing  
6           provisions authorizing licensed child-placing  
7           agencies to file actions to terminate parental  
8           rights; amending s. 39.47, F.S.; providing  
9           additional requirements for a petition for  
10          adoption; prohibiting filing such petition  
11          until the order terminating parental rights is  
12          final; amending s. 63.022, F.S.; revising  
13          legislative intent with respect to adoptions in  
14          this state; amending s. 63.032, F.S.; revising  
15          definitions; defining the term "adoption  
16          entity"; creating s. 63.037, F.S.; exempting  
17          adoption proceedings that result from a  
18          termination of parental rights under ch. 39,  
19          F.S., from certain provisions of ch. 63, F.S.;  
20          creating s. 63.038, F.S.; providing criminal  
21          penalties for committing certain fraudulent  
22          acts; creating s. 63.039, F.S.; providing  
23          sanctions and an award of attorney's fees under  
24          certain circumstances; amending s. 63.052,  
25          F.S.; providing for placement of a minor  
26          pending adoption; specifying the jurisdiction  
27          of the court over a minor who has been placed  
28          for adoption; amending s. 63.062, F.S.;  
29          specifying additional persons who must consent  
30          to an adoption, execute an affidavit of  
31          nonpaternity, or receive notice of proceedings

1 to terminate parental rights; permitting an  
2 affidavit of nonpaternity under certain  
3 circumstances; amending s. 63.082, F.S.;  
4 revising requirements for executing a consent  
5 to an adoption; providing a time period for  
6 withdrawing consent; providing additional  
7 disclosure requirements; amending s. 63.085,  
8 F.S.; specifying information that must be  
9 disclosed to persons seeking to adopt a minor  
10 and to the birth parents; creating s. 63.087,  
11 F.S.; requiring that a separate proceeding be  
12 conducted by the court to determine whether a  
13 birth parent's parental rights should be  
14 terminated; providing for rules, jurisdiction,  
15 and venue for such proceedings; providing  
16 requirements for the petition and hearing;  
17 creating s. 63.088, F.S.; providing  
18 requirements for identifying and locating a  
19 person who is required to consent to an  
20 adoption or receive notice of proceedings to  
21 terminate parental rights; providing  
22 requirements for the notice; providing  
23 requirements for conducting a diligent search  
24 for such person whose location is unknown;  
25 requiring that an unlocated or unidentified  
26 person be served notice by constructive  
27 service; providing that failure to respond or  
28 appear constitutes grounds to terminate  
29 parental rights pending adoption; creating s.  
30 63.089, F.S.; providing procedures for the  
31 proceeding to terminate parental rights pending

1 adoption; specifying the matters to be  
2 determined; specifying grounds upon which  
3 parental rights may be terminated; providing  
4 for procedures following a judgment; providing  
5 for records to be made part of the subsequent  
6 adoption; amending s. 63.092, F.S.; providing  
7 requirements to be met if a prospective  
8 placement in an adoptive home is an at-risk  
9 placement; defining at-risk placement; amending  
10 s. 63.097, F.S.; revising requirements for the  
11 court in approving specified fees and costs;  
12 amending s. 63.102, F.S.; revising requirements  
13 for filing a petition for adoption; providing  
14 requirements for prior approval of fees and  
15 costs; amending s. 63.112, F.S.; revising  
16 requirements for the information that must be  
17 included in a petition for adoption; amending  
18 s. 63.122, F.S.; revising the time requirements  
19 for hearing a petition for adoption; amending  
20 s. 63.125, F.S., relating to the final home  
21 investigation; conforming provisions to changes  
22 made by the act; amending s. 63.132, F.S.;  
23 revising requirements for the report of  
24 expenditures and receipts which is filed with  
25 the court; amending s. 63.142, F.S.; specifying  
26 circumstances under which a judgment  
27 terminating parental rights pending adoption is  
28 voidable; providing for an evidentiary hearing  
29 to determine the minor's placement following a  
30 motion to void such a judgment; amending s.  
31 63.152, F.S.; requiring that the clerk of the

1 court mail a copy of a new birth record to the  
2 state registry of adoption information;  
3 amending s. 63.165, F.S.; requiring that a copy  
4 of the certified statement of final decree of  
5 adoption be included in the state registry of  
6 adoption information; requiring that the  
7 Department of Children and Family Services  
8 maintain such information for a specified  
9 period; amending s. 63.182, F.S.; requiring  
10 that an action to vacate an order of adoption  
11 or an order terminating parental rights pending  
12 adoption be filed within a specified period  
13 after entry of the order; amending s. 63.207,  
14 F.S.; revising provisions that limit the  
15 placement of a minor in another state for  
16 adoption; amending s. 63.212, F.S., relating to  
17 prohibitions and penalties with respect to  
18 adoptions; conforming provisions to changes  
19 made by the act; repealing s. 63.072, F.S.,  
20 relating to persons who may waive required  
21 consent to an adoption; requiring that a  
22 petition for adoption be governed by the law in  
23 effect at the time the petition is filed;  
24 providing an effective date.

25

26 Be It Enacted by the Legislature of the State of Florida:

27

28 Section 1. Section 39.461, Florida Statutes, is  
29 amended to read:

30

39.461 Petition for termination of parental rights.--

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1 (1) All proceedings seeking an adjudication to  
2 terminate parental rights pursuant to this chapter must be  
3 initiated by the filing of an original petition by the  
4 department, the guardian ad litem, ~~or a licensed child-placing~~  
5 ~~agency~~ or ~~by~~ any other person who has knowledge of the facts  
6 alleged or is informed of them and believes that they are  
7 true.

8 (2) The form of the petition is governed by the  
9 Florida Rules of Juvenile Procedure. The petition must be in  
10 writing and signed by the petitioner or, if the department is  
11 the petitioner, by an employee of the department, under oath  
12 stating the petitioner's good faith in filing the petition.

13 (3) When a petition for termination of parental rights  
14 has been filed, the clerk of the court shall set the case  
15 before the court for an advisory hearing.

16 Section 2. Section 39.464, Florida Statutes, as  
17 amended by section 12 of chapter 97-276, Laws of Florida, is  
18 amended to read:

19 39.464 Grounds for termination of parental rights.--

20 (1) The department, the guardian ad litem, ~~a licensed~~  
21 ~~child-placing agency,~~ or any person related to the child who  
22 has knowledge of the facts alleged or who is informed of said  
23 facts and believes that they are true, may petition for the  
24 termination of parental rights under any of the following  
25 circumstances:

26 (a) When the parent or parents voluntarily executed a  
27 written surrender of the child and consented to the entry of  
28 an order giving custody of the child to the department ~~or to a~~  
29 ~~licensed child-placing agency~~ for subsequent adoption and the  
30 department ~~or licensed child-placing agency~~ is willing to  
31 accept custody of the child.

1           1. The surrender document must be executed before two  
2 witnesses and a notary public or other person authorized to  
3 take acknowledgments.

4           2. The surrender and consent may be withdrawn after  
5 acceptance by the department ~~or licensed child placing agency~~  
6 only after a finding by the court that the surrender and  
7 consent were obtained by fraud or duress.

8           (b) When the identity or location of the parent or  
9 parents is unknown and, if the court requires a diligent  
10 search pursuant to s. 39.4625, cannot be ascertained by  
11 diligent search as provided in s. 39.4625 within 90 days.

12           (c) When the parent or parents engaged in conduct  
13 toward the child or toward other children that demonstrates  
14 that the continuing involvement of the parent or parents in  
15 the parent-child relationship threatens the life or well-being  
16 of the child irrespective of the provision of services.  
17 Provision of services is evidenced by proof that services were  
18 provided through a previous plan or offered as a case plan  
19 from a child welfare agency.

20           (d) When the parent of a child is incarcerated in a  
21 state or federal correctional institution and:

22           1. The period of time for which the parent is expected  
23 to be incarcerated will constitute a substantial portion of  
24 the period of time before the child will attain the age of 18  
25 years;

26           2. The incarcerated parent has been determined by the  
27 court to be a violent career criminal as defined in s.  
28 775.084, a habitual violent felony offender as defined in s.  
29 775.084, or a sexual predator as defined in s. 775.21; has  
30 been convicted of first degree or second degree murder in  
31 violation of s. 782.04 or a sexual battery that constitutes a

1 capital, life, or first degree felony violation of s. 794.011;  
2 or has been convicted of an offense in another jurisdiction  
3 which is substantially similar to one of the offenses listed  
4 in this paragraph. As used in this section, the term  
5 "substantially similar offense" means any offense that is  
6 substantially similar in elements and penalties to one of  
7 those listed in this paragraph, and that is in violation of a  
8 law of any other jurisdiction, whether that of another state,  
9 the District of Columbia, the United States or any possession  
10 or territory thereof, or any foreign jurisdiction; and

11 3. The court determines by clear and convincing  
12 evidence that continuing the parental relationship with the  
13 incarcerated parent would be harmful to the child and, for  
14 this reason, that termination of the parental rights of the  
15 incarcerated parent is in the best interest of the child.

16 (e) When the parent or parents engaged in egregious  
17 conduct that endangers the life, health, or safety of the  
18 child or the child's sibling or had the opportunity and  
19 capability to prevent egregious conduct that threatened the  
20 life, health, or safety of the child or the child's sibling  
21 and knowingly failed to do so.

22 1. As used in this subsection, the term "sibling"  
23 means another child who resides with or is cared for by the  
24 parent or parents regardless of whether the child is related  
25 legally or by consanguinity.

26 2. As used in this subsection, the term "egregious  
27 abuse" means conduct of the parent or parents that is  
28 deplorable, flagrant, or outrageous by a normal standard of  
29 conduct. Egregious abuse may include an act or omission that  
30 occurred only once but was of such intensity, magnitude, or  
31 severity as to endanger the life of the child.

1           (f) A petition for termination of parental rights may  
2 also be filed when a child has been adjudicated dependent, a  
3 case plan has been filed with the court, and the child  
4 continues to be abused, neglected, or abandoned by the  
5 parents. In this case, the failure of the parents to  
6 substantially comply for a period of 12 months after an  
7 adjudication of the child as a dependent child constitutes  
8 evidence of continuing abuse, neglect, or abandonment unless  
9 the failure to substantially comply with the case plan was due  
10 either to the lack of financial resources of the parents or to  
11 the failure of the department to make reasonable efforts to  
12 reunify the family. Such 12-month period may begin to run only  
13 after the entry of a disposition order placing the custody of  
14 the child with the department or a person other than the  
15 parent and the subsequent filing with the court of a case plan  
16 with a goal of reunification with the parent.

17           (2) When a petition for termination of parental rights  
18 is filed under subsection (1), a separate petition for  
19 dependency need not be filed and the department need not offer  
20 the parents a case plan with a goal of reunification, but may  
21 instead file with the court a case plan with a goal of  
22 termination of parental rights.

23           Section 3. Subsections (2) and (8) of section 39.469,  
24 Florida Statutes, are amended to read:

25           39.469 Powers of disposition; order of disposition.--

26           (2) If the child is in foster care custody of the  
27 department and the court finds that the grounds for  
28 termination of parental rights have been established by clear  
29 and convincing evidence, the court shall, by order, place the  
30 child in the custody of the department for the purpose of

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1 ~~adoption or place the child in the custody of a licensed~~  
2 ~~child-placing agency for the purpose of adoption.~~

3 (8) If the court terminates parental rights, it shall,  
4 in its order of disposition, provide for a hearing, to be  
5 scheduled no later than 30 days after the date of disposition,  
6 in which the department ~~or the licensed child-placing agency~~  
7 shall provide to the court a plan for permanency for the  
8 child. Thereafter, until the adoption of the child is  
9 finalized or the child reaches the age of 18 years, whichever  
10 occurs first, the court shall hold hearings at 6-month  
11 intervals to review the progress being made toward permanency  
12 for the child.

13 Section 4. Section 39.47, Florida Statutes, is amended  
14 to read:

15 39.47 Postdisposition ~~Post disposition~~ relief.--

16 (1) ~~A licensed child-placing agency or~~ The department  
17 that which is given custody of a child for subsequent adoption  
18 in accordance with this chapter may place the child in a  
19 family home for prospective subsequent adoption and may  
20 thereafter become a party to any proceeding for the legal  
21 adoption of the child and appear in any court where the  
22 adoption proceeding is pending and consent to the adoption;  
23 and that consent alone shall in all cases be sufficient.

24 (2) In any subsequent adoption proceeding, the parents  
25 and legal guardian are ~~shall~~ not ~~be~~ entitled to ~~any~~ notice of  
26 the proceeding and are not thereof, nor shall they be entitled  
27 to knowledge at any time after the order terminating parental  
28 rights is entered of the whereabouts of the child or of the  
29 identity or location of any person having the custody of or  
30 having adopted the child, except as provided by order of the  
31 court pursuant to this chapter or chapter 63; and in any

1 habeas corpus or other proceeding involving the child brought  
2 by any parent or legal guardian of the child, an ~~no~~ agent of  
3 ~~the licensed child-placing agency or department~~ may not shall  
4 be compelled to divulge that information, but may be compelled  
5 to produce the child before a court of competent jurisdiction  
6 if the child is still subject to the guardianship of the  
7 ~~licensed child-placing agency or department~~.

8 (3) The entry of the custody order to the department  
9 does ~~or licensed child-placing agency shall~~ not entitle the  
10 ~~licensed child-placing agency or department~~ to guardianship of  
11 the estate or property of the child, but the ~~licensed~~  
12 ~~child-placing agency or department~~ shall be the guardian of  
13 the person of the child.

14 (4) The court shall retain jurisdiction over any child  
15 for whom custody is given to ~~a licensed child-placing agency~~  
16 ~~or to~~ the department until the child is adopted. After custody  
17 of a child for subsequent adoption has been given to ~~an agency~~  
18 ~~or~~ the department, the court has jurisdiction for the purpose  
19 of reviewing the status of the child and the progress being  
20 made toward permanent adoptive placement. As part of this  
21 continuing jurisdiction, for good cause shown by the guardian  
22 ad litem for the child, the court may review the  
23 appropriateness of the adoptive placement of the child. The  
24 petition for adoption must be filed in the division of the  
25 circuit court which issued the judgment terminating parental  
26 rights. A copy of the consent required under s. 63.062(4) and  
27 executed by the department must be attached to the petition  
28 for adoption. The petition for adoption must be accompanied by  
29 a form created by the department which details the social and  
30 medical history of each birth parent and includes the social  
31 security number and date of birth for each birth parent, if

1 such information is available or readily obtainable. The  
2 person seeking to adopt the minor may not file a petition for  
3 adoption until the order terminating parental rights becomes  
4 final. An adoption proceeding under this subsection is  
5 governed by chapter 63, as limited under s. 63.037.

6 (5) The Legislature finds that children are most  
7 likely to realize their potential when they have the ability  
8 provided by good permanent families rather than spending long  
9 periods of time in temporary placements or unnecessary  
10 institutions. It is the intent of the Legislature that  
11 decisions be consistent with the child's best interests and  
12 that the department make proper adoptive placements as  
13 expeditiously as possible following a final judgment  
14 terminating parental rights.

15 Section 5. Section 63.022, Florida Statutes, is  
16 amended to read:

17 63.022 Legislative intent.--

18 (1) It is the intent of the Legislature to protect and  
19 promote the well-being of persons being adopted and their  
20 birth and adoptive parents and to provide to all children who  
21 can benefit by it a permanent family life, and, whenever  
22 possible, to maintain sibling groups.

23 (2) The basic safeguards intended to be provided by  
24 this chapter ~~act~~ are that:

25 (a) The minor ~~child~~ is legally free for adoption.

26 (b) The required persons consent to the adoption or  
27 the parent-child relationship is terminated by judgment of the  
28 court.

29 (c) The required social studies are completed and the  
30 court considers the reports of these studies prior to judgment  
31 on adoption petitions.

1 (d) All placements of minors for adoption are reported  
2 to the Department of Children and Family Services.

3 (e) A sufficient period of time elapses during which  
4 the minor ~~child~~ has lived within the proposed adoptive home  
5 under the guidance of the department or a licensed  
6 child-placing agency.

7 (f) All expenditures by adoption entities  
8 ~~intermediaries~~ placing, and persons independently adopting, a  
9 minor are reported to the court and become a permanent record  
10 in the file of the adoption proceedings.

11 (g) Social and medical information concerning the  
12 minor child and the birth parents is furnished by the birth  
13 parent when available and filed with the court before a final  
14 hearing on a petition to terminate parental rights pending  
15 adoption consent to the adoption when a minor is placed by an  
16 intermediary.

17 (h) A new birth certificate is issued after entry of  
18 the adoption judgment.

19 (i) At the time of the hearing, the court may ~~is~~  
20 ~~authorized to~~ order temporary substitute care when it  
21 determines that the minor is in an unsuitable home.

22 (j) The records of all proceedings concerning custody  
23 and adoption of minor children are confidential and exempt  
24 from ~~the provisions of~~ s. 119.07(1), except as provided in s.  
25 63.162.

26 (k) The birth parent, the adoptive parent, and the  
27 minor child receive the same or similar safeguards, guidance,  
28 counseling, and supervision in an intermediary adoption as  
29 they receive in an agency or department adoption.

30 (l) In all matters coming before the court pursuant to  
31 this chapter ~~act~~, the court shall enter such orders as it

1 deems necessary and suitable to promote and protect the best  
2 interests of the person to be adopted.

3 Section 6. Section 63.032, Florida Statutes, is  
4 amended to read:

5 63.032 Definitions.--As used in this chapter act,  
6 ~~unless the context otherwise requires~~, the term:

7 (1) "Department" means the Department of Children and  
8 Family Services.

9 (2) "Child" means a son or daughter, whether by birth  
10 or adoption.

11 (3) "Court" means any circuit court of this state and,  
12 when the context requires, the court of any state that is  
13 empowered to grant petitions for adoption.

14 (4) "Minor" means a person under the age of 18 years.

15 (5) "Adult" means a person who is not a minor.

16 (6) "Person" includes a natural person, corporation,  
17 government or governmental subdivision or agency, business  
18 trust, estate, trust, partnership, or association, and any  
19 other legal entity.

20 (7) "Agency" means any child-placing agency licensed  
21 by the department pursuant to s. 63.202 to place minors for  
22 adoption.

23 (8) "Intermediary" means an attorney ~~or physician~~ who  
24 is licensed or authorized to practice in this state and who  
25 has reported the intended placement of a minor for adoption  
26 under s. 63.092 or, for the purpose of adoptive placements of  
27 children from out of state with citizens of this state, a  
28 child-placing agency licensed in another state that is  
29 qualified by the department.

30 (9) "To place" or "placement" means the process of a  
31 person giving a child up for adoption and the prospective

1 parents receiving and adopting the child, and includes all  
2 actions by any person or agency participating in the process.

3 (10) "Adoption" means the act of creating the legal  
4 relationship between parent and child where it did not exist,  
5 thereby declaring the child to be legally the child of the  
6 adoptive parents and their heir at law and entitled to all the  
7 rights and privileges and subject to all the obligations of a  
8 child born to such adoptive parents in lawful wedlock.

9 (11) "Suitability of the intended placement" includes  
10 the fitness of the intended placement, with primary  
11 consideration being given to the welfare of the child; the  
12 fitness and capabilities of the adoptive parent or parents to  
13 function as parent or parents for a particular child; any  
14 familial relationship between the child and the prospective  
15 placement; and the compatibility of the child with the home in  
16 which the child is intended to be placed.

17 (12) "Primary residence and place of employment in  
18 Florida" means a person lives and works in this state at least  
19 6 months of the year and intends to do so for the foreseeable  
20 future or military personnel who designate Florida as their  
21 place of residence in accordance with the Soldiers' and  
22 Sailors' Civil Relief Act of 1940 or employees of the United  
23 States Department of State living in a foreign country who  
24 designate Florida as their place of residence.

25 (13) "Primarily lives and works outside Florida" means  
26 anyone who does not meet the definition of "primary residence  
27 and place of employment in Florida."

28 (14) "Abandoned" means a situation in which the parent  
29 or legal custodian of a child, while being able, makes no  
30 provision for the child's support and makes no effort to  
31 communicate with the child, which situation is sufficient to

1 evince a willful rejection of parental obligations. If, in the  
2 opinion of the court, the efforts of such parent or legal  
3 custodian to support and communicate with the child are only  
4 marginal efforts that do not evince a settled purpose to  
5 assume all parental duties, the court may declare the child to  
6 be abandoned. In making this decision, the court may consider  
7 the conduct of a father towards the child's mother during her  
8 pregnancy.

9 (15) "Adoption entity" means the department under  
10 chapter 39; an agency under chapter 63 or, at the request of  
11 the department, under chapter 39; or an intermediary under  
12 chapter 63, placing a person for adoption.

13 Section 7. Section 63.037, Florida Statutes, is  
14 created to read:

15 63.037 Proceedings applicable to cases resulting from  
16 a termination of parental rights under chapter 39.--A case in  
17 which a minor becomes available for adoption after the  
18 parental rights of each parent have been terminated by a court  
19 order issued pursuant to chapter 39 will be governed by s.  
20 39.47 and this chapter. Adoption proceedings filed under  
21 chapter 39 are exempt from the following provisions of this  
22 chapter: disclosure requirements for the adoption entity  
23 provided in s. 63.085; general provisions governing  
24 termination of parental rights pending adoption provided in s.  
25 63.087; notice and service provisions governing termination of  
26 parental rights pending adoption provided in s. 63.088; and  
27 procedures for terminating parental rights pending adoption  
28 provided in s. 63.089.

29 Section 8. Section 63.038, Florida Statutes, is  
30 created to read:

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1           63.038 Prohibited acts.--A person who knowingly and  
2 willfully provides false information under this chapter or  
3 who, with the intent to defraud, accepts benefits related to  
4 the same pregnancy from more than one agency or intermediary  
5 without disclosing that fact to each entity commits a  
6 misdemeanor of the second degree, punishable as provided in s.  
7 775.082 or s. 775.083. In addition to any other penalty or  
8 liability allowed by law, a person who knowingly and willfully  
9 provides false information under this chapter or who, with  
10 intent to defraud, accepts benefits related to the same  
11 pregnancy from more than one agency or intermediary without  
12 disclosing that fact to each entity and to any prospective  
13 adoptive parent providing sums for the payment of the benefits  
14 is liable for sums paid by anyone who paid sums permitted  
15 under this chapter in anticipation of or in connection with an  
16 adoption. A person seeking to collect moneys under this  
17 section may do so by filing a civil action or may be awarded  
18 restitution in a criminal prosecution.

19           Section 9. Section 63.039, Florida Statutes, is  
20 created to read:

21           63.039 Duty of adoption entity to prospective adoptive  
22 parents; sanctions.--

23           (1) An adoption entity placing a minor for adoption  
24 has an affirmative duty to follow the requirements of this  
25 chapter, specifically the following provisions, which protect  
26 and promote the well-being of persons being adopted and their  
27 birth and adoptive parents by promoting certainty, finality,  
28 and permanency for such persons:

29           (a) Provide written initial disclosure to the adoptive  
30 parent at the time and in the manner required under s.  
31 63.085(1);



1           (b) Obtain a written statement by the adoptive parent  
2 acknowledging receipt of the written initial disclosure and  
3 distribute copies of that acknowledgment at the time and in  
4 the manner required under s. 63.085(3);

5           (c) Provide written initial and postbirth disclosure  
6 to the birth parent at the time and in the manner required  
7 under s. 63.085;

8           (d) Obtain a written statement by the birth parent  
9 acknowledging receipt of the written initial and postbirth  
10 disclosure and distribute copies of that acknowledgment at the  
11 time and in the manner required under s. 63.085(3);

12           (e) When a written consent for adoption is obtained,  
13 obtain the consent at the time and in the manner required  
14 under s. 63.082;

15           (f) When a written consent or affidavit of  
16 nonpaternity for adoption is obtained, obtain a consent or  
17 affidavit of nonpaternity that contains the language required  
18 under s. 63.062 or s. 63.082;

19           (g) Include in the petition to terminate parental  
20 rights pending adoption all information required under s.  
21 63.087(6)(e);

22           (h) Obtain and file the affidavit of inquiry required  
23 under s. 63.088(3);

24           (i) When the identity of a person whose consent to  
25 adoption is necessary under this chapter is known but the  
26 location of such a person is unknown, conduct the  
27 due-diligence search and file the affidavit required under s.  
28 63.088(4);

29           (j) Serve the petition and notice of hearing to  
30 terminate parental rights pending adoption at the time and in  
31 the manner required by s. 63.088; and

1           (k) Hold the hearings required under this chapter no  
2 sooner than permitted by this chapter.

3           (2) An adoption entity that materially fails to meet a  
4 duty specified in subsection (1), may be liable to the  
5 prospective adoptive parents for all sums paid by the  
6 prospective adoptive parents or on their behalf in  
7 anticipation of or in connection with an adoption.

8           (3) If a court finds that a consent taken under this  
9 chapter was obtained by fraud or duress attributable to the  
10 adoption entity, the court must award all sums paid by the  
11 prospective adoptive parents or on their behalf in  
12 anticipation of or in connection with the adoption. The court  
13 may also award reasonable attorney's fees and costs incurred  
14 by the prospective adoptive parents in connection with the  
15 adoption and any litigation related to placement or adoption  
16 of a minor. An award under this subsection must be paid  
17 directly to the prospective adoptive parents by the adoption  
18 entity.

19           (4) If a person whose consent to an adoption is  
20 necessary under s. 63.062 prevails in an action to set aside a  
21 consent to adoption, a judgment terminating parental rights  
22 pending adoption, or a judgment of adoption, the court must  
23 award a reasonable attorney's fee to the prevailing party. An  
24 award under this subsection is to be paid by the adoption  
25 entity if the court finds that the acts or omissions of the  
26 entity were the basis for the court's order granting relief to  
27 the prevailing party.

28           (5) The court must provide to The Florida Bar any  
29 order that imposes sanctions under this section against an  
30 attorney, whether acting as an adoption agency or as an  
31 intermediary. The court must provide to the Department of

1 Children and Family Services any order that imposes sanctions  
2 under this section against an agency. The order must be  
3 provided within 30 days after the date that the order was  
4 issued.

5 Section 10. Section 63.052, Florida Statutes, is  
6 amended to read:

7 63.052 Guardians designated; proof of commitment.--

8 (1) For minors who have been placed for adoption with  
9 and permanently committed to an agency, the agency shall be  
10 the guardian of the person of the minor child; for those who  
11 have been placed for adoption with and permanently committed  
12 to the department, the department shall be the guardian of the  
13 person of the minor child.

14 (2) For minors who have been voluntarily surrendered  
15 to an intermediary through an execution of consent to  
16 adoption, the intermediary shall be responsible for the child  
17 until the time a court orders preliminary approval of  
18 placement of the child in the prospective adoptive home, at  
19 which time the prospective adoptive parents become guardians  
20 pending finalization of adoption. Until a court has terminated  
21 parental rights pending adoption and has ordered preliminary  
22 approval of placement of the minor in the adoptive home, the  
23 minor must be placed in the care of a birth relative, placed  
24 in foster care, or placed in the care of a prospective  
25 adoptive home that has received a favorable home study by a  
26 licensed child placing agency, a licensed professional, or an  
27 agency described in s. 61.20(2) within 1 year before such  
28 placement of the minor with the prospective adoptive parents.  
29 The fact that a minor is temporarily placed with the  
30 prospective adoptive parents does not give rise to a  
31

1 presumption that the parental rights of the birth parents will  
2 subsequently be terminated.

3       (2) For minors who have been placed for adoption with  
4 or voluntarily surrendered to an agency, but have not been  
5 permanently committed to the agency, the agency shall have the  
6 responsibility and authority to provide for the needs and  
7 welfare for such minors. For those minors placed for adoption  
8 with or voluntarily surrendered to the department, but not  
9 permanently committed to the department, the department shall  
10 have the responsibility and authority to provide for the needs  
11 and welfare for such minors. The adoption entity may  
12 ~~department, an intermediary, or a licensed child-placing~~  
13 ~~agency has the authority to~~ authorize all appropriate medical  
14 care for a minor ~~the children~~ who has ~~have~~ been placed for  
15 adoption with or voluntarily surrendered to them. The  
16 provisions of s. 627.6578 shall remain in effect  
17 notwithstanding the guardianship provisions in this section.

18       (3) If a minor is surrendered to an intermediary for  
19 subsequent adoption and a suitable prospective adoptive home  
20 is not available under s. 63.092 at the time the minor is  
21 surrendered to the intermediary or, if the minor is a newborn  
22 admitted to a licensed hospital or birth center, at the time  
23 the minor is discharged from the hospital or birth center the  
24 minor must be placed in licensed foster care, ~~the intermediary~~  
25 ~~shall be responsible for the child~~ until a suitable  
26 prospective adoptive home is available under s. 63.092.

27       (4) If a minor ~~child~~ is voluntarily surrendered to an  
28 intermediary for subsequent adoption and the adoption does not  
29 become final within 180 days, the intermediary must report to  
30 the court on the status of the minor ~~child~~ and the court may  
31

1 at that time proceed under s. 39.453 or take action reasonably  
2 necessary to protect the best interest of the minor child.

3 (5) The recital in the written consent given by the  
4 department that the minor child sought to be adopted has been  
5 permanently committed to the department shall be prima facie  
6 proof of such commitment. The recital in the written consent  
7 given by a licensed child-placing agency or the declaration in  
8 an answer or recommendation filed by a licensed child-placing  
9 agency that the minor child has been permanently committed and  
10 the child-placing agency is duly licensed by the department  
11 shall be prima facie proof of such commitment and of such  
12 license.

13 (6) Unless otherwise authorized by law, the department  
14 is not responsible for expenses incurred by licensed  
15 child-placing agencies or intermediaries participating in  
16 placement of a minor child for the purposes of adoption.

17 (7) The court retains jurisdiction over a minor who  
18 has been placed for adoption until the adoption is final.  
19 After a minor is placed with an adoption entity or prospective  
20 adoptive parent, the court has jurisdiction for the purpose of  
21 reviewing the status of the minor and the progress being made  
22 toward permanent adoptive placement. As part of this  
23 continuing jurisdiction, for good cause shown by a person  
24 whose consent to an adoption is required under s. 63.062, by a  
25 party to any proceeding involving the minor, or upon the  
26 court's own motion, the court may review the appropriateness  
27 of the adoptive placement of the minor.

28 Section 11. Section 63.062, Florida Statutes, is  
29 amended to read:

30 63.062 Persons required to consent to adoption.--

31

1           (1) Unless supported by one or more of the grounds  
2 enumerated under s. 63.089(3)~~consent is excused by the court,~~  
3 a petition to terminate parental rights pending adoption ~~adopt~~  
4 ~~a minor~~ may be granted only if written consent has been  
5 executed as provided in s. 63.082 after the birth of the minor  
6 or notice has been served under s. 63.088 to ~~by~~:

7           (a) The mother of the minor.

8           (b) The father of the minor, if:

9           1. The minor was conceived or born while the father  
10 was married to the mother;~~;~~

11           2. The minor is his child by adoption;~~;~~

12           3. The minor has been established by court proceeding  
13 to be his child.

14           (c) If there is no father as set forth in subsection  
15 (b), any man for whom the minor has been established to be his  
16 child by scientific tests that are generally acceptable within  
17 the scientific community to show a probability of paternity.

18           (d) If there is no father as set forth in subsection  
19 (b) or subsection (c), any man who:

20           1.4. He Has acknowledged in writing, signed in the  
21 presence of a competent witness, that he is the father of the  
22 minor and has filed such acknowledgment with the Office of  
23 Vital Statistics of the Department of Health;~~;~~

24           2.5. He Has provided the child or the mother during  
25 her pregnancy with support in a repetitive, customary manner;~~;~~

26           3. Has been identified by the birth mother as a person  
27 she has reason to believe may be the father of the minor in an  
28 action to terminate parental rights pending adoption pursuant  
29 to this chapter; or

30  
31

1           4. Is a party in any pending proceeding in which  
2 paternity, custody, or termination of parental rights  
3 regarding the minor is at issue.

4           ~~(e)(c)~~ The minor, if more than 12 years of age, unless  
5 the court in the best interest of the minor dispenses with the  
6 minor's consent.

7           (2) Any person whose consent is required under  
8 paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) may  
9 execute an affidavit of nonpaternity in lieu of a consent  
10 under this section and by doing so waives notice to all court  
11 proceedings after the date of execution. An affidavit of  
12 nonpaternity must be executed under s. 63.082 and the person  
13 executing the affidavit must receive disclosure under s.  
14 63.085 prior to signing the affidavit. An affidavit of  
15 nonpaternity must be in substantially the following form:

16  
17                                   AFFIDAVIT OF NONPATERNITY

18  
19           1. I have personal knowledge of the facts  
20 stated herein.

21           2. I have been told that ..... has a child. I  
22 shall not establish or  
23 claim paternity for this child.

24           3. The child noted herein was not conceived or  
25 born while the birth mother was married to me.  
26 I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I  
27 intend to marry the birth mother.

28           4. I have not provided the birth mother with  
29 child support or prebirth support; I have not  
30 provided her with prenatal care nor assisted  
31 her with medical expenses; I have not provided

1 the birth mother or her child or unborn child  
2 with support of any kind, nor do I intend to do  
3 so.

4 5. I have no interest in assuming the  
5 responsibilities of parenthood for this child.  
6 I will not acknowledge in writing to be the  
7 father of this child nor institute court  
8 proceedings to establish the child to be mine.

9 6. I do not object to any decision or  
10 arrangements ... makes regarding this child,  
11 including adoption.

12  
13 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO  
14 TERMINATE PARENTAL RIGHTS OR FINALIZE AN  
15 ADOPTION UNDER THIS CHAPTER.

16  
17 ~~(3)(2)~~ The court may require that consent be executed  
18 by:

19 (a) Any person lawfully entitled to custody of the  
20 minor; or

21 (b) The court having jurisdiction to determine custody  
22 of the minor, if the person having physical custody of the  
23 minor has no authority to consent to the adoption.

24 ~~(4)(3)~~ The petitioner must make good faith and  
25 diligent efforts as provided under s. 63.088 to notify, and  
26 obtain written consent from, the persons required to consent  
27 to adoption under s. 63.062 ~~within 60 days after filing the~~  
28 ~~petition. These efforts may include conducting interviews and~~  
29 ~~record searches to locate those persons, including verifying~~  
30 ~~information related to location of residence, employment,~~

31



1 ~~service in the Armed Forces, vehicle registration in this~~  
2 ~~state, and corrections records.~~

3 (5)~~(4)~~ If parental rights to the minor have previously  
4 been terminated, a licensed child-placing agency or the  
5 department with which the minor ~~child~~ has been placed for  
6 subsequent adoption may provide consent to the adoption. In  
7 such case, no other consent is required.

8 (6)~~(5)~~ A petition to adopt an adult may be granted if:

9 (a) Written consent to adoption has been executed by  
10 the adult and the adult's spouse, if any.

11 (b) Written consent to adoption has been executed by  
12 the birth parents, if any, or proof of service of process has  
13 been filed, showing notice has been served on the parents as  
14 provided in this chapter ~~section~~.

15 Section 12. Section 63.082, Florida Statutes, is  
16 amended to read:

17 63.082 Execution of consent or affidavit of  
18 nonpaternity; family medical history; withdrawal of consent.--

19 (1) Consent or an affidavit of nonpaternity shall be  
20 executed as follows:

21 (a) If by the person to be adopted, by oral or written  
22 statement in the presence of the court or by being  
23 acknowledged before a notary public.

24 (b) If by an agency, by affidavit from its authorized  
25 representative.

26 (c) If by any other person, in the presence of the  
27 court or by affidavit.

28 (d) If by a court, by an appropriate order or  
29 certificate of the court.

30 (2) A consent that does not name or otherwise identify  
31 the adopting parent is valid if the consent contains a

1 statement by the person consenting that the consent was  
2 voluntarily executed and that identification of the adopting  
3 parent is not required for granting the consent.

4 (3)(a) The department must provide a consent form and  
5 a family social and medical history form to an adoption entity  
6 that intermediary who intends to place a child for adoption.  
7 The forms completed by the birth parents must be attached to  
8 the petition to terminate parental rights pending adoption and  
9 must contain such biological and sociological information, or  
10 such information as to the family medical history, regarding  
11 the minor child and the birth parents as is required by the  
12 department. The information must be incorporated into the  
13 final home investigation report specified in s. 63.125. The  
14 ~~court may also require that the~~ birth mother and birth father  
15 must be interviewed by a representative of the department, a  
16 licensed child-placing agency, or a professional pursuant to  
17 s. 63.092 before the consent is executed, unless the birth  
18 parent is found to be an unlocated parent or an unidentified  
19 parent. A summary of each interview, or a statement that the  
20 parent is unlocated or unidentified, must be filed with the  
21 petition to terminate parental rights pending adoption and  
22 included in the final home study filed under s. 63.125.

23 (b) Consent executed by ~~the department, by a licensed~~  
24 ~~child-placing agency, or by~~ an appropriate order or  
25 certificate of the court under s. 63.062(3)(b) must be  
26 attached to the petition to terminate parental rights pending  
27 adoption and ~~must be accompanied by a family medical history~~  
28 ~~that includes such information concerning the medical history~~  
29 ~~of the child and the birth parents as is available or readily~~  
30 ~~obtainable.~~

31

1           (c) If any executed consent or social and medical  
2 history is unavailable because the person whose consent is  
3 required is unlocated or unidentified, the petition must be  
4 accompanied by the affidavit of due diligence required under  
5 s. 63.088.

6           (4)(a) The consent to an adoption or affidavit of  
7 nonpaternity shall not ~~for voluntary surrender must~~ be  
8 executed before ~~after~~ the birth of the minor.

9           (b) A consent to adoption of a minor who is to be  
10 placed for adoption under s. 63.052 upon the minor's release  
11 following birth from a licensed hospital or birth center,  
12 shall not be executed sooner than:

- 13           1. 48 hours from the time of the minor's birth; or  
14           2. The day the birth mother is determined in writing,  
15 either on a patient chart or in release paperwork to be fit  
16 for release from a licensed hospital or birth center;  
17 whichever is sooner.

18  
19 A consent executed under this paragraph is valid upon  
20 execution and thereafter may only be withdrawn when the court  
21 finds that it was obtained by fraud or under duress.

22           (c) When the minor to be adopted is not placed under  
23 s. 63.052 upon the minor's release following birth from a  
24 licensed hospital or birth center, the consent may be executed  
25 at any time after the birth of the minor. While such consent  
26 is valid upon execution, it is subject to a 3-day revocation  
27 period under subsection (7).

28           (d) The consent or affidavit of nonpaternity must be  
29 signed ~~child~~, in the presence of two witnesses, and be  
30 acknowledged before a notary public who is not signing as one  
31 of the witnesses. The notary public must legibly note on the

1 consent or affidavit of nonpaternity the date and time the  
2 consent or affidavit of nonpaternity was executed.The  
3 witnesses' names must be typed or printed underneath their  
4 signatures. The witnesses', and their home or business  
5 addresses and social security numbers, driver's license  
6 numbers, or state identification card numbers must be  
7 included. The absence of a social security number, driver's  
8 license number, or state identification card number shall not  
9 be deemed to invalidate the consent. The person who signs the  
10 consent or affidavit has the right to have at least one of the  
11 witnesses be an individual who does not have a partnership,  
12 employment, agency, or other professional or personal  
13 relationship with the adoption entity or the prospective  
14 adoptive parents. The person who signs the consent or  
15 affidavit of nonpaternity must be given reasonable notice of  
16 the right to select a witness of his or her own choosing. The  
17 person who signs the consent or affidavit of nonpaternity must  
18 acknowledge in writing on the consent or affidavit that such  
19 notice was given and indicate the witness, if any, who was  
20 selected by the person signing the consent or affidavit. A  
21 consent to adoption must contain, in at least 16-point  
22 boldfaced type, an acknowledgement of the birth parent's  
23 rights in substantially the following form:

24  
25 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU  
26 HAVE THE RIGHT TO DO ANY OF THE FOLLOWING  
27 INSTEAD OF SIGNING THIS CONSENT OR BEFORE  
28 SIGNING THIS CONSENT:

29  
30 (A) CONSULT WITH AN ATTORNEY;

31 (B) HOLD, CARE FOR, AND FEED THE CHILD;

1           (C) PLACE THE CHILD IN FOSTER CARE OR WITH ANY  
2           FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS  
3           WILLING TO CARE FOR YOUR CHILD;  
4           (D) TAKE THE CHILD HOME; AND  
5           (E) FIND OUT ABOUT THE COMMUNITY RESOURCES  
6           THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO  
7           THROUGH WITH THE ADOPTION.  
8  
9           IF YOU DO SIGN THIS CONSENT, YOU ARE  
10          RELINQUISHING ALL RIGHTS TO YOUR CHILD. YOUR  
11          CONSENT IS VALID AND BINDING UNLESS WITHDRAWN  
12          AS PERMITTED BY LAW. WHEN RELINQUISHING YOUR  
13          RIGHTS TO A CHILD WHO IS TO BE PLACED FOR  
14          ADOPTION UNDER S. 63.052, F.S., UPON THE  
15          MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED  
16          HOSPITAL OR BIRTH CENTER, A WAITING PERIOD WILL  
17          BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR  
18          ADOPTION. YOU WILL BE REQUIRED TO WAIT 48 HOURS  
19          FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH  
20          MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON  
21          HER CHART OR IN RELEASE PAPERS THAT SHE IS FIT  
22          TO BE RELEASED FROM A LICENSED HOSPITAL OR  
23          BIRTHING CENTER, WHICHEVER IS SOONER, BEFORE  
24          YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU  
25          HAVE SIGNED THE CONSENT, IT IS VALID AND  
26          BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT  
27          FINDS THAT IT WAS OBTAINED THROUGH FRAUD OR  
28          UNDER DURESS. IF YOU ARE RELINQUISHING YOUR  
29          RIGHTS TO A CHILD WHO IS NOT PLACED UNDER S.  
30          63.052, F.S., UPON THE MINOR'S RELEASE  
31          FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR

1        BIRTH CENTER, THE CONSENT MAY BE EXECUTED AT  
2        ANY TIME AFTER THE BIRTH OF THE MINOR. WHILE  
3        SUCH CONSENT IS VALID UPON EXECUTION, IT IS  
4        SUBJECT TO A 3-DAY REVOCATION PERIOD.  
5  
6        WHEN THE REVOCATION PERIOD APPLIES, YOU MAY  
7        WITHDRAW YOUR CONSENT FOR ANY REASON IF YOU DO  
8        SO WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU  
9        SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE  
10       DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A  
11       LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS  
12       LATER.  
13  
14       YOU MAY DO THIS BY NOTIFYING THE ADOPTION  
15       ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR  
16       CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER  
17       AT A UNITED STATES POST OFFICE AND ASKING THAT  
18       THE LETTER BE SENT BY CERTIFIED UNITED STATES  
19       MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3  
20       BUSINESS DAYS AFTER THE DATE YOU SIGNED THE  
21       CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE  
22       BIRTH MOTHER'S DISCHARGE FROM A LICENSED  
23       HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.  
24       AS USED IN THIS SECTION, THE TERM "BUSINESS  
25       DAY" MEANS A DAY ON WHICH THE UNITED STATES  
26       POST OFFICE ACCEPTS CERTIFIED MAIL FOR  
27       DELIVERY. THE COST OF THIS MUST BE PAID AT THE  
28       TIME OF MAILING AND THE RECEIPT SHOULD BE  
29       RETAINED AS PROOF THAT CONSENT WAS WITHDRAWN IN  
30       A TIMELY MANNER.  
31

1           THE ADOPTION ENTITY YOU SHOULD NOTIFY IS:  
2           ...(Name of Adoption Entity)..., ...(Address of  
3           Adoption Entity)..., ...(Phone Number of  
4           Adoption Entity)... FOLLOWING 3 BUSINESS DAYS  
5           AFTER THE DATE YOU SIGNED THE CONSENT OR 1  
6           BUSINESS DAY AFTER THE DATE OF THE BIRTH  
7           MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR  
8           BIRTH CENTER, WHICHEVER IS LATER, YOU MAY  
9           WITHDRAW YOUR CONSENT ONLY IF YOU CAN PROVE IN  
10           COURT THAT CONSENT WAS OBTAINED BY FRAUD OR  
11           DURESS.

12  
13           (5) Before any consent to adoption or affidavit of  
14           nonpaternity is executed by a birth parent, but after the  
15           birth of the child, all requirements of disclosure under s.  
16           63.085 must be met.

17           (6) A copy of each consent signed in an action for  
18           termination of parental rights pending adoption must be  
19           provided to each person whose consent is required under s.  
20           63.062. A copy of each consent must be hand delivered, with a  
21           written acknowledgement of receipt signed by the person whose  
22           consent is required, or mailed by first class United States  
23           mail to the address of record in the court file. If a copy of  
24           a consent cannot be provided as required in this section, the  
25           adoption entity must execute an acknowledgement that states  
26           the reason the copy of the consent is undeliverable. The  
27           original consent and acknowledgment of receipt, or the  
28           acknowledgment of mailing by the adoption entity, must be  
29           filed with the petition for termination of parental rights  
30           pending adoption.

31

1           ~~(7)(5)~~ Consent executed under subsection (4) paragraph  
2 (c) may be withdrawn for any reason by notifying the adoption  
3 entity in writing by certified United States mail, return  
4 receipt requested, not later than 3 business days after  
5 execution of the consent or 1 business day after the date of  
6 the birth mother's discharge from a licensed hospital or birth  
7 center, whichever occurs later. As used in this subsection,  
8 the term "business day" means a day on which the United States  
9 Post Office accepts certified mail for delivery. Upon  
10 receiving written notice from a person of that person's desire  
11 to withdraw consent, the adoption entity must contact the  
12 prospective adoptive parent to arrange a time certain for the  
13 adoption entity to regain physical custody of the child,  
14 unless upon motion for emergency hearing by the adoption  
15 entity, the court determines in written findings that  
16 placement of the minor with the person withdrawing consent may  
17 endanger the minor. If the court finds that such placement may  
18 endanger the minor, the court must enter an order regarding  
19 continued placement of the child. The order shall include, but  
20 not be limited to, whether temporary placement in foster care  
21 is appropriate, whether an investigation by the Department of  
22 Children and Families is recommended, and whether a relative  
23 within the third degree is available for the temporary  
24 placement. In addition, if the person withdrawing consent  
25 claims to be the father of the minor but has not been  
26 established to be the father by marriage, court order, or  
27 scientific testing, the court may order scientific paternity  
28 testing and reserve ruling on removal of the child until the  
29 results of such testing have been filed with the court. The  
30 adoption entity must return the minor within 3 days to the  
31 physical custody of the person withdrawing consent.



1 Thereafter, consent may be withdrawn only when the court finds  
2 that the consent was obtained by fraud or duress. An affidavit  
3 of nonpaternity may be withdrawn only if the court finds that  
4 the affidavit of nonpaternity was obtained by fraud. The  
5 adoption entity must include its name, address, and telephone  
6 number on the consent form.

7 Section 13. Section 63.085, Florida Statutes, is  
8 amended to read:

9 (Substantial rewording of section. See  
10 s. 63.085, F.S., for present text.)

11 63.085 Disclosure by adoption entity.--

12 (1) DISCLOSURE REQUIRED TO BIRTH PARENTS AND  
13 PROSPECTIVE ADOPTIVE PARENTS.--Not later than 7 days after a  
14 person seeking to adopt a minor or a person seeking to place a  
15 minor for adoption contacts an adoption entity in person or  
16 provides the adoption entity with a mailing address, the  
17 entity must provide a written disclosure statement to that  
18 person. If a birth parent did not initially contact the  
19 adoption entity, the written disclosure must be provided  
20 within 7 days after that birth parent is identified and  
21 located. The written disclosure statement must be in  
22 substantially the following form:

23  
24 ADOPTION DISCLOSURE

25  
26 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE  
27 PROVIDED TO ALL PERSONS CONSIDERING ADOPTION TO  
28 ADVISE THEM OF THE FOLLOWING FACTS REGARDING  
29 ADOPTION UNDER FLORIDA LAW:  
30  
31

1           1. Under section 63.212, Florida  
2           Statutes, the existence of a placement or  
3           adoption contract signed by the birth parent or  
4           adoptive parent, prior approval of that  
5           contract by the court, or payment of any  
6           expenses permitted under Florida law does not  
7           obligate anyone to sign a consent or ultimately  
8           place a minor for adoption.

9           2. Under section 63.092, Florida  
10           Statutes, a favorable preliminary home study  
11           and a home investigation of the prospective  
12           adoptive home must be completed as required by  
13           chapter 63, Florida Statutes, before the minor  
14           may be placed in that home.

15           3. Under section 63.082, Florida  
16           Statutes, a consent for adoption or affidavit  
17           of nonpaternity may not be signed until after  
18           the birth of the minor. The consent or  
19           affidavit of nonpaternity is valid and binding  
20           upon execution unless withdrawn as permitted  
21           under section 63.082, Florida Statutes. If the  
22           minor is to be placed for adoption upon leaving  
23           the hospital, the consent may not be signed  
24           until 48 hours after birth or the day the birth  
25           mother is released from the hospital. If the  
26           minor is not placed for adoption upon leaving  
27           the hospital, a 3-day revocation period  
28           applies. Consent may be withdrawn for any  
29           reason by notifying the adoption entity in  
30           writing. In order to withdraw consent, the  
31           written withdrawal of consent must be mailed no

1        later than 3 business days after execution of  
2        the consent or 1 business day after the date of  
3        the birth mother's discharge from a licensed  
4        hospital or birth center, whichever occurs  
5        later. The letter must be mailed certified  
6        mail, return receipt requested. This is done by  
7        presenting it at any United States Post Office,  
8        and asking that the letter be sent by certified  
9        United States mail with return receipt  
10       requested. The cost of this must be paid at the  
11       time of mailing and the receipt should be  
12       retained as proof that consent was withdrawn in  
13       a timely manner. For purposes of this chapter,  
14       the term "business day" means a day on which  
15       the United States Post Office accepts certified  
16       mail for delivery. Upon receiving written  
17       notice from a person of that person's desire to  
18       withdraw consent, the adoption entity must  
19       contact the prospective adoptive parent to  
20       arrange a time certain to regain physical  
21       custody of the child. The adoption entity must  
22       return the minor within 3 days to the physical  
23       custody of the person withdrawing consent.  
24       Thereafter, consent may be withdrawn only if  
25       the court finds that consent was obtained by  
26       fraud. An affidavit of nonpaternity, once  
27       executed, may be withdrawn only if the court  
28       finds that it was obtained by fraud.

29                4. Under section 63.082, Florida  
30        Statutes, a person who signs a consent or  
31        affidavit of nonpaternity for adoption must be

1 given reasonable notice of his or her right to  
2 select a person who does not have a  
3 partnership, employment, agency, or other  
4 professional or personal relationship with the  
5 adoption entity or the prospective adoptive  
6 parents to be present when the consent or  
7 affidavit of nonpaternity is executed and to  
8 sign the consent or affidavit as a witness.

9 5. Under section 63.088, Florida  
10 Statutes, specific and extensive efforts are  
11 required by law to attempt to obtain the  
12 consents required under section 63.062, Florida  
13 Statutes. If these efforts are unsuccessful, an  
14 order terminating parental rights pending  
15 adoption may not be issued by the court until  
16 those requirements have been met and an  
17 affidavit of service has been filed with the  
18 court.

19 6. Under Florida law, an intermediary may  
20 represent the legal interests of only the  
21 adoptive parents, not of any birth parent. Each  
22 person whose consent to an adoption is required  
23 under section 63.062, Florida Statutes,  
24 including each birth parent, is entitled to  
25 seek independent legal advice and  
26 representation before signing any document or  
27 surrendering parental rights.

28 7. Under section 63.089, Florida  
29 Statutes, the termination of parental rights  
30 will occur simultaneously with the entry of a  
31

1 judgment terminating parental rights pending  
2 adoption.

3 8. Under section 63.182, Florida  
4 Statutes, an action or proceeding of any kind  
5 to vacate, set aside, or otherwise nullify an  
6 order of adoption or an underlying order  
7 terminating parental rights pending adoption on  
8 any ground, including fraud or duress, must be  
9 filed within 1 year after entry of the order  
10 terminating parental rights pending adoption.

11 9. Under section 63.182, Florida  
12 Statutes, for 1 year after the entry of a  
13 judgment of adoption, any irregularity or  
14 procedural defect in the adoption proceeding  
15 may be the subject of an appeal contesting the  
16 validity of the judgment.

17 10. Under section 63.089, Florida  
18 Statutes, a judgment terminating parental  
19 rights pending adoption is voidable and any  
20 later judgment of adoption of that minor is  
21 voidable if, upon the motion of a birth parent,  
22 the court finds that any person knowingly gave  
23 false information that prevented the birth  
24 parent from timely making known his or her  
25 desire to assume parental responsibilities  
26 toward the minor or meeting the requirements  
27 under chapter 63, Florida Statutes, to exercise  
28 his or her parental rights. A motion under  
29 section 63.089, Florida Statutes, must be filed  
30 with the court originally entering the  
31 judgment. The motion must be filed within a

1 reasonable time, but not later than 1 year  
2 after the date the judgment to which the motion  
3 is directed was entered.

4 11. Under section 63.165, Florida  
5 Statutes, the State of Florida maintains a  
6 registry of adoption information. Information  
7 about the registry is available from the  
8 Department of Children and Family Services.

9 12. Under section 63.032, Florida  
10 Statutes, a court may find that a birth parent  
11 has abandoned his or her child based on conduct  
12 during the pregnancy or based on conduct after  
13 the child is born. In addition, under section  
14 63.089, Florida Statutes, the failure of a  
15 birth parent to respond to notices of  
16 proceedings involving his or her child shall  
17 result in termination of parental rights of a  
18 birth parent. A lawyer can explain what a birth  
19 parent must do to protect his or her parental  
20 rights. Any birth parent wishing to protect his  
21 or her parental rights should act IMMEDIATELY.

22 13. Each birth parent and adoptive parent  
23 is entitled to independent legal advice and  
24 representation. Attorney information may be  
25 obtained from the yellow pages, The Florida  
26 Bar's lawyer referral service, and local legal  
27 aid offices and bar associations.

28 14. There are counseling services  
29 available in the community to assist in making  
30 a parenting decision. Consult the yellow pages  
31 of the telephone directory.

1                   15. Medical and social services support  
2                   is available if the birth parent wishes to  
3                   retain parental rights and responsibilities.  
4                   Consult the Department of Children and Family  
5                   Services.

6  
7                   (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity  
8 must obtain a written statement acknowledging receipt of the  
9 disclosure required under subsection (1) and signed by the  
10 persons receiving the disclosure or, if it is not possible to  
11 obtain such an acknowledgement, the adoption entity must  
12 execute an affidavit stating why an acknowledgement could not  
13 be obtained. A copy of the acknowledgement of receipt of the  
14 disclosure must be provided to the person signing it. A copy  
15 of the acknowledgement or affidavit executed by the adoption  
16 entity in lieu of the acknowledgement must be maintained in  
17 the file of the adoption entity. The original acknowledgement  
18 or affidavit must be filed with the court. In the case of a  
19 disclosure provided under subsection (1), the original  
20 acknowledgement or affidavit must be included in the  
21 preliminary home study required in s. 63.092(3).

22                   (3) POST-BIRTH DISCLOSURE TO BIRTH PARENTS.--Before  
23 execution of any consent to adoption by a birth parent, but  
24 after the birth of the minor, all requirements of subsections  
25 (1) and (2) for making certain disclosures to a birth parent  
26 and obtaining a written acknowledgment of receipt must be  
27 repeated.

28                   Section 14. Section 63.087, Florida Statutes, is  
29 created to read:

30                   63.087 Proceeding to terminate parental rights pending  
31 adoption; general provisions.--

1           (1) INTENT.--It is the intent of the Legislature to  
2 provide a proceeding in which the court determines whether a  
3 minor is legally available for adoption through a separate  
4 proceeding to address termination of parental rights prior to  
5 the filing of a petition for adoption.

6           (2) GOVERNING RULES.--The Florida Family Law Rules of  
7 Procedure govern a proceeding to terminate parental rights  
8 pending adoption unless otherwise provided by law.

9           (3) JURISDICTION.--A court of this state which is  
10 competent to decide child welfare or custody matters has  
11 jurisdiction to hear all matters arising from a proceeding to  
12 terminate parental rights pending adoption. All subsequent  
13 proceedings for the adoption of the minor, if the petition for  
14 termination is granted, must be conducted by the same judge as  
15 these proceedings whenever possible.

16           (4) VENUE.--A petition to terminate parental rights  
17 pending adoption must be filed in the county where the child  
18 resided for the prior 6 months or, if the child is younger  
19 than 6 months of age, in the county where the birth mother or  
20 birth father resided at the time of the execution of the  
21 consent to adoption or the affidavit of nonpaternity, or, if  
22 there is no consent or affidavit of nonpaternity executed by a  
23 birth parent, in the county where the birth mother resides.

24           (5) PREREQUISITE FOR ADOPTION.--A petition for  
25 adoption may not be filed until 30 days after the date the  
26 judge signed the judgment terminating parental rights pending  
27 adoption under this chapter, unless the adoptee is an adult or  
28 the minor has been the subject of a judgment terminating  
29 parental rights under chapter 39.

30           (6) PETITION.--  
31



1           (a) A proceeding seeking to terminate parental rights  
2 pending adoption pursuant to this chapter must be commenced by  
3 the filing of an original petition after the birth of the  
4 minor.

5           (b) The petition may be filed by a birth parent or  
6 legal guardian of the minor.

7           (c) The petition must be entitled: "In the Matter of  
8 the Proposed Adoption of a Minor Child."

9           (d) If a petition for a declaratory statement under s.  
10 63.102 has previously been filed, a subsequent petition to  
11 terminate parental rights pending adoption may, at the request  
12 of any party or on the court's own motion, be consolidated  
13 with that previous action. If the petition to terminate  
14 parental rights pending adoption is consolidated with a prior  
15 petition filed under this chapter for which a filing fee has  
16 been paid, the petitioner may not be charged a subsequent or  
17 additional filing fee.

18           (e) The petition to terminate parental rights pending  
19 adoption must be in writing and signed by the petitioner under  
20 oath stating the petitioner's good faith in filing the  
21 petition. A written consent, affidavit of nonpaternity, or  
22 affidavit of due diligence under s. 63.088, for each person  
23 whose consent is required under s. 63.062, must be attached.

24           (f) The petition must include:

25           1. The minor's name, gender, date of birth, and place  
26 of birth. The petition must contain all names by which the  
27 minor is or has been known, including the minor's legal name  
28 at the time of the filing of the petition, to allow interested  
29 parties to the action, including birth parents, legal  
30 guardians, persons with custodial or visitation rights to the  
31 minor, and persons entitled to notice pursuant to the Uniform

1 Child Custody Jurisdiction Act or the Indian Child Welfare  
2 Act, to identify their own interest in the action.

3 2. If the petition is filed before the day the minor  
4 is 6 months old and if the identity or location of the birth  
5 father is unknown, each city in which the birth mother resided  
6 or traveled during the 12 months prior to the minor's birth,  
7 including the county and state in which that city is located.

8 3. Unless the consent of each person whose consent is  
9 required under s. 63.062 or an affidavit of nonpaternity is  
10 attached to the petition, the name and address or, if a  
11 specific address is unknown, the city, including the county  
12 and state in which that city is located, of:

13 a. The minor's mother;

14 b. Any man whom the mother reasonably believes may be  
15 the minor's father; and

16 c. Any legal custodian of the minor.

17  
18 If a required name or address is not known, the petition must  
19 so state.

20 4. All information required by the Uniform Child  
21 Custody Jurisdiction Act and the Indian Child Welfare Act.

22 5. A statement of the grounds under s. 63.089 upon  
23 which the petition is based.

24 6. The name, address, and telephone number of any  
25 adoption entity seeking to place the minor for adoption.

26 7. The name, address, and phone number of the division  
27 of the circuit in which the petition is to be filed.

28 (7) ANSWER NOT REQUIRED.--An answer to the petition or  
29 any pleading need not be filed by any minor, parent, or legal  
30 custodian, but any matter that might be set forth in an answer  
31 or other pleading may be pleaded orally before the court or

1 filed in writing as any such person may choose.  
2 Notwithstanding the filing of any answer or any pleading, any  
3 person present at the hearing to terminate parental rights  
4 pending adoption whose consent to adoption is required under  
5 s. 63.062 must:

6 (a) Be advised by the court that he or she has a right  
7 to ask that the hearing be reset for a later date so that the  
8 person may consult with an attorney;

9 (b) Be given an opportunity to deny the allegations in  
10 the petition; and

11 (c) Be given the opportunity to challenge the validity  
12 of any consents or affidavits of nonpaternity signed by any  
13 person.

14 Section 15. Section 63.088, Florida Statutes, is  
15 created to read:

16 63.088 Proceeding to terminate parental rights pending  
17 adoption; notice and service.--

18 (1) INITIATE LOCATION AND IDENTIFICATION  
19 PROCEDURES.--When the location or identity of a person whose  
20 consent to an adoption is required but is not known, the  
21 adoption entity must begin the inquiry and diligent search  
22 process required by this section not later than 7 days after  
23 the date on which the person seeking to place a minor for  
24 adoption has evidenced in writing to the entity a desire to  
25 place the minor for adoption with that entity or not later  
26 than 7 days after the date any money is provided as permitted  
27 under this chapter by the adoption entity for the benefit of  
28 the person seeking to place a minor for adoption.

29 (2) LOCATION AND IDENTITY KNOWN.--Before the court may  
30 determine that a minor is available for adoption, and in  
31 addition to the other requirements set forth in this chapter,

1 each person whose consent is required under s. 63.062, who has  
2 not executed an affidavit of nonpaternity, and whose location  
3 and identity has been determined by compliance with the  
4 procedures in this section must be personally served, pursuant  
5 to chapter 48, at least 30 days before the hearing with a copy  
6 of the petition to terminate parental rights pending adoption  
7 and with notice in substantially the following form:

8  
9 NOTICE OF PETITION AND HEARING

10 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

11  
12 A petition to terminate parental rights pending  
13 adoption has been filed. A copy of the petition  
14 is being served with this notice. There will be  
15 a hearing on the petition to terminate parental  
16 rights pending adoption on ... (date) ... at  
17 ... (time) ... before ... (judge) ... at ...  
18 (location, including complete name and street  
19 address of the courthouse) .... The court has  
20 set aside ... (amount of time) ... for this  
21 hearing.

22  
23 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE  
24 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH  
25 THE COURT OR TO APPEAR AT THIS HEARING  
26 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL  
27 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING  
28 THE MINOR CHILD.

29  
30 (3) REQUIRED INQUIRY.--In all cases filed under this  
31 section, the court must conduct the following inquiry of the

1 person who is placing the minor for adoption and of any  
2 relative or custodian of the minor who is present at the  
3 hearing and likely to have the following information:

4 (a) Whether the mother of the minor was married at any  
5 time when conception of the minor may have occurred or at the  
6 time of the birth of the minor;

7 (b) Whether the mother was cohabiting with a male at  
8 any time when conception of the minor may have occurred;

9 (c) Whether the mother has received payments or  
10 promises of support with respect to the minor or, because of  
11 her pregnancy, from any person she has reason to believe may  
12 be the father;

13 (d) Whether the mother has named any person as the  
14 father on the birth certificate of the minor or in connection  
15 with applying for or receiving public assistance;

16 (e) Whether any person has acknowledged or claimed  
17 paternity of the minor; and

18 (f) Whether the mother knows the identity of any  
19 person whom she has reason to believe may be the father.

20  
21 The information required under this subsection may be provided  
22 to the court in the form of a sworn affidavit by a person  
23 having personal knowledge of the facts, addressing each  
24 inquiry enumerated in this subsection. The inquiry required  
25 under this subsection may be conducted before the birth of the  
26 minor.

27 (4) LOCATION UNKNOWN; IDENTITY DETERMINED.--If the  
28 inquiry by the court under subsection (3) identifies any  
29 person whose consent is required under s. 63.062 and who has  
30 not executed an affidavit of nonpaternity, and the location of  
31 the person from whom consent is required is unknown, the

1 adoption entity must conduct a diligent search for that person  
2 which must include the following inquiries:

3 (a) The person's current address, or any previous  
4 address, through an inquiry of the United States Post Office  
5 through the Freedom of Information Act;

6 (b) The last known employment of the person, including  
7 the name and address of the person's employer. Inquiry should  
8 be made of the last known employer as to any address to which  
9 wage and earnings statements (W-2 forms) of the person have  
10 been mailed. Inquiry should be made of the last known employer  
11 as to whether the person is eligible for a pension or  
12 profit-sharing plan and any address to which pension or other  
13 funds have been mailed;

14 (c) Union memberships the person may have held or  
15 unions that governed the person's particular trade or craft in  
16 the area where the person last resided;

17 (d) Regulatory agencies, including those regulating  
18 licensing in the area where the person last resided;

19 (e) Names and addresses of relatives to the extent  
20 such can be reasonably obtained from the petitioner or other  
21 sources, contacts with those relatives, and inquiry as to the  
22 person's last known address. The petitioner shall pursue any  
23 leads of any addresses where the person may have moved.  
24 Relatives include, but are not limited to, parents, brothers,  
25 sisters, aunts, uncles, cousins, nieces, nephews,  
26 grandparents, great grandparents, former in-laws, stepparents,  
27 and stepchildren;

28 (f) Information as to whether or not the person may  
29 have died, and if so, the date and location;

30 (g) Telephone listings in the area where the person  
31 last resided;

1 (h) Inquiries of law enforcement agencies in the area  
2 where the person last resided;

3 (i) Highway patrol records in the state where the  
4 person last resided;

5 (j) Department of Corrections records in the state  
6 where the person last resided;

7 (k) Hospitals in the area where the person last  
8 resided;

9 (l) Records of utility companies, including water,  
10 sewer, cable TV, and electric companies in the area where the  
11 person last resided;

12 (m) Records of the Armed Forces of the United States  
13 as to whether there is any information as to the person;

14 (n) Records of the tax assessor and tax collector in  
15 the area where the person last resided; and

16 (o) Search of one Internet data bank locator service.

17  
18 Any person contacted by a petitioner who is requesting  
19 information pursuant to this subsection must release the  
20 requested information to the petitioner, except when  
21 prohibited by law, without the necessity of a subpoena or  
22 court order. An affidavit of diligent search executed by the  
23 petitioner and the adoption entity must be filed with the  
24 court confirming completion of each aspect of the diligent  
25 search enumerated in this subsection and specifying the  
26 results. The diligent search required under this subsection  
27 may be conducted before the birth of the minor.

28 (5) LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.--This  
29 subsection only applies if, as to any person whose consent is  
30 required under s. 63.062 and who has not executed an affidavit  
31 of nonpaternity, the location or identity of the person is

1 unknown and the inquiry under subsection (3) fails to identify  
2 the person or the due diligence search under subsection (4)  
3 fails to locate the person. The unlocated or unidentified  
4 person must be served notice under s. 63.088(2), of the  
5 petition and hearing to terminate parental rights pending  
6 adoption by constructive service in the manner provided in  
7 chapter 49 in each county identified in the petition, as  
8 provided in s. 63.087(6). The notice, in addition to all  
9 information required in the petition under s. 63.087(6) and  
10 chapter 49, must contain a physical description, including,  
11 but not limited to, age, race, hair and eye color, and  
12 approximate height and weight of the minor's mother and of any  
13 person the mother reasonably believes may be the father; the  
14 minor's date of birth; and any date and city, including the  
15 county and state in which the city is located, in which  
16 conception may have occurred. If any of the facts that must be  
17 included in the petition under this subsection are unknown and  
18 cannot be reasonably ascertained, the petition must so state.

19 Section 16. Section 63.089, Florida Statutes, is  
20 created to read:

21 63.089 Proceeding to terminate parental rights pending  
22 adoption.--

23 (1) HEARING.--The court may terminate parental rights  
24 pending adoption only after a full evidentiary hearing.

25 (2) HEARING PREREQUISITES.--The court may hold the  
26 hearing only when:

27 (a) For each person whose consent is required under s.  
28 63.062:

29 1. A consent under s. 63.082 has been executed and  
30 filed within the court;

31



1           2. An affidavit of nonpaternity under s. 63.082 has  
2 been executed and filed with the court; or

3           3. Notice has been provided under ss. 63.087 and  
4 63.088;

5           (b) For each notice and petition that must be served  
6 under ss. 63.087 and 63.088:

7           1. At least 30 days have elapsed since the date of  
8 personal service and an affidavit of service has been filed  
9 with the court;

10           2. At least 60 days have elapsed since the first date  
11 of publication of constructive service and an affidavit of  
12 service has been filed with the court; or

13           3. An affidavit of nonpaternity which affirmatively  
14 waives service has been executed and filed with the court;

15           (c) The minor named in the petition has been born; and

16           (d) The petition contains all information required  
17 under s. 63.087 and all affidavits of inquiry, due diligence,  
18 and service required under s. 63.088 have been obtained and  
19 filed with the court.

20           (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING  
21 ADOPTION.--The court may issue a judgment terminating parental  
22 rights pending adoption if the court determines by clear and  
23 convincing evidence that each person whose consent to an  
24 adoption is required under s. 63.062:

25           (a) Has executed a valid consent that has not been  
26 withdrawn under s. 63.082 and the consent was obtained  
27 according to the requirements of this chapter;

28           (b) Has executed an affidavit of nonpaternity and the  
29 affidavit was obtained according to the requirements of this  
30 chapter;

31

1           (c) Has been properly served notice of the proceeding  
2 in accordance with the requirements of this chapter and has  
3 failed to file a written answer or appear at the evidentiary  
4 hearing resulting in the order terminating parental rights  
5 pending adoption;

6           (d) Has abandoned the minor as abandonment is defined  
7 in s. 63.032(14);

8           (e) Is a parent of the person to be adopted, which  
9 parent has been judicially declared incapacitated with  
10 restoration of competency found to be medically improbable;

11           (f) Is a legal guardian or lawful custodian of the  
12 person to be adopted, other than a parent, who has failed to  
13 respond in writing to a request for consent for a period of 60  
14 days or, after examination of his or her written reasons for  
15 withholding consent, is found by the court to be withholding  
16 his or her consent unreasonably; or

17           (g) Is the spouse of the person to be adopted who has  
18 failed to consent, and the failure of the spouse to consent to  
19 the adoption is excused by reason of prolonged and unexplained  
20 absence, unavailability, incapacity, or circumstances that are  
21 found by the court to constitute unreasonable withholding of  
22 consent.

23           (4) FINDING OF ABANDONMENT.--A finding of abandonment  
24 resulting in a termination of parental rights must be based  
25 upon clear and convincing evidence. A finding of abandonment  
26 may not be based upon a lack of emotional support to a birth  
27 mother during her pregnancy.

28           (a) In making a determination of abandonment the court  
29 must consider:  
30  
31

1           1. Whether the actions alleged to constitute  
2 abandonment demonstrate a willful disregard for the safety of  
3 the child or unborn child;

4           2. Whether other persons prevented the person alleged  
5 to have abandoned the child from making the efforts referenced  
6 in this subsection;

7           3. Whether the person alleged to have abandoned the  
8 child, while being able, refused to provide financial support  
9 when such support was requested by the child's legal guardian  
10 or custodian;

11           4. Whether the person alleged to have abandoned the  
12 child, while being able, refused to pay for medical treatment  
13 when such payment was requested by the child's legal guardian  
14 or custodian and those expenses were not covered by insurance  
15 or other available sources;

16           5. Whether the amount of support provided or medical  
17 expenses paid was appropriate, taking into consideration the  
18 needs of the child and relative means and resources available  
19 to the person alleged to have abandoned the child and  
20 available to the child's legal guardian or custodian during  
21 the period the child allegedly was abandoned; and

22           6. Whether the child's legal guardian or custodian  
23 made the child's whereabouts known to the person alleged to  
24 have abandoned the child; advised that person of the needs of  
25 the child or the needs of the mother of an unborn child with  
26 regard to the pregnancy; or informed that person of events  
27 such as medical appointments and tests relating to the child  
28 or, if unborn, the pregnancy.

29           (b) The child has been abandoned when the parent of a  
30 child is incarcerated on or after October 1, 1998, in a state  
31 or federal correctional institution and sentenced to a term of

1 incarceration of 8 years or longer, regardless of how long the  
2 person is actually incarcerated under that sentence or how  
3 long the person will be incarcerated after October 1, 1998,  
4 and:

5 1. The period of time for which the parent is expected  
6 to be incarcerated will constitute a substantial portion of  
7 the period of time before the child will attain the age of 18  
8 years;

9 2. The incarcerated parent has been determined by the  
10 court to be a violent career criminal as defined in s.  
11 775.084, a habitual violent felony offender as defined in s.  
12 775.084, or a sexual predator as defined in s. 775.21; has  
13 been convicted of first degree or second degree murder in  
14 violation of s. 782.04 or a sexual battery that constitutes a  
15 capital, life, or first degree felony violation of s. 794.011;  
16 or has been convicted of an offense in another jurisdiction  
17 which is substantially similar to one of the offenses listed  
18 in this paragraph. As used in this section, the term

19 "substantially similar offense" means any offense that is  
20 substantially similar in elements and penalties to one of  
21 those listed in this paragraph, and that is in violation of a  
22 law of any other jurisdiction, whether that of another state,  
23 the District of Columbia, the United States or any possession  
24 or territory thereof, or any foreign jurisdiction; and

25 3. The court determines by clear and convincing  
26 evidence that continuing the parental relationship with the  
27 incarcerated parent would be harmful to the child and, for  
28 this reason, that termination of the parental rights of the  
29 incarcerated parent is in the best interest of the child.

30 (c) The only conduct of a father toward a mother  
31 during pregnancy that the court may consider in determining

1 whether the child has been abandoned is conduct that occurred  
2 after reasonable and diligent efforts have been made to inform  
3 the father that he is, or may be, the father of the child.

4 (5) DISMISSAL OF CASE WITH PREJUDICE.--If the court  
5 does not find by clear and convincing evidence that parental  
6 rights of a birth parent should be terminated pending  
7 adoption, the court must dismiss the case with prejudice and  
8 that birth parent's parental rights remain in full force under  
9 the law. Parental rights may not be terminated based upon a  
10 consent that the court finds has been timely withdrawn under  
11 s. 63.082 or a consent or affidavit of nonpaternity that the  
12 court finds was obtained by fraud. The court must enter an  
13 order based upon written findings providing for the placement  
14 of the minor. The court may order scientific testing to  
15 determine the paternity of the minor at any time during which  
16 the court has jurisdiction over the minor. Further  
17 proceedings, if any, regarding the minor must be brought in a  
18 separate custody action under chapter 61, a dependency action  
19 under chapter 39, or a paternity action under chapter 742.

20 (6) A JUDGMENT TERMINATING PARENTAL RIGHTS PENDING  
21 ADOPTION.--

22 (a) The judgment terminating parental rights pending  
23 adoption must be in writing and contain findings of fact as to  
24 the grounds for terminating parental rights pending adoption.

25 (b) The clerk of the court shall mail a copy of the  
26 judgment within 24 hours after filing to the department, the  
27 petitioner, and the respondent. The clerk shall execute a  
28 certificate of each mailing.

29 (c) A judgment terminating parental rights pending  
30 adoption is voidable and any later judgment of adoption of  
31 that minor is voidable if, upon the motion of a birth parent,

1 the court finds that a person knowingly gave false information  
2 that prevented the birth parent from timely making known his  
3 or her desire to assume parental responsibilities toward the  
4 minor or meeting the requirements under this chapter to  
5 exercise his or her parental rights. A motion under this  
6 paragraph must be filed with the court originally entering the  
7 judgment. The motion must be filed within a reasonable time,  
8 but not later than 1 year after the date the termination of  
9 parental rights final order was entered.

10 (d) Not later than 30 days after the filing of a  
11 motion under this subsection, the court must conduct a  
12 preliminary hearing to determine what contact, if any, shall  
13 be permitted between a birth parent and the child pending  
14 resolution of the motion. Such contact shall only be  
15 considered if it is requested by a birth parent who has  
16 appeared at the hearing. If the court orders contact between a  
17 birth parent and child, the order must be issued in writing as  
18 expeditiously as possible and must state with specificity any  
19 provisions regarding contact with persons other than those  
20 with whom the child resides.

21 (e) At the preliminary hearing, the court, upon the  
22 motion of any party or its own motion, may order scientific  
23 testing to determine the paternity of the minor if the person  
24 seeking to set aside the judgment is alleging to be the  
25 child's birth father and that fact has not previously been  
26 determined by legitimacy or scientific testing. The court may  
27 order supervised visitation with a person from whom scientific  
28 testing for paternity has been ordered conditional upon the  
29 filing of those test results with the court and such results  
30 establish that person's paternity of the minor.

31

1           (f) No later than 45 days after the preliminary  
2 hearing, the court must conduct a final hearing on the motion  
3 to set aside the judgment and issue its written order as  
4 expeditiously as possible thereafter.

5           (7) RECORDS; CONFIDENTIAL INFORMATION.--All records  
6 pertaining to a petition to terminate parental rights pending  
7 adoption are records related to the subsequent adoption of the  
8 minor and are subject to the provisions of s. 63.162, as such  
9 provisions apply to records of an adoption proceeding. The  
10 confidentiality provisions of this chapter do not apply to the  
11 extent information regarding persons or proceedings must be  
12 made available as specified under s. 63.088.

13           Section 17. Section 63.092, Florida Statutes, is  
14 amended to read:

15           63.092 Report to the court of intended placement by an  
16 intermediary; preliminary study.--

17           (1) REPORT TO THE COURT.--The adoption entity  
18 ~~intermediary~~ must report any intended placement of a minor for  
19 adoption with any person not related within the third degree  
20 or a stepparent if the adoption entity ~~intermediary~~ has  
21 knowledge of, or participates in, such intended placement. The  
22 report must be made to the court before the minor is placed in  
23 the home.

24           (2) AT-RISK PLACEMENT.--If the minor is placed in the  
25 prospective adoptive home before the parental rights of the  
26 minor's birth parents are terminated under s. 63.089, the  
27 placement is an at-risk placement. If the placement is an  
28 at-risk placement, the prospective adoptive parents must  
29 acknowledge in writing before the minor may be placed in the  
30 prospective adoptive home that the placement is at risk and  
31

1 that the minor is subject to removal from the prospective  
2 adoptive home by the adoption entity or by court order.

3 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the  
4 minor in the intended adoptive home, a preliminary home study  
5 must be performed by a licensed child-placing agency, a  
6 licensed professional, or agency described in s. 61.20(2),  
7 unless the petitioner is a stepparent, a spouse of the birth  
8 parent, or a relative. The preliminary study shall be  
9 completed within 30 days after the receipt by the court of the  
10 adoption entity's intermediary's report, but in no event may  
11 the minor child be placed in the prospective adoptive home  
12 prior to the completion of the preliminary study unless  
13 ordered by the court. If the petitioner is a stepparent, a  
14 spouse of the birth parent, or a relative, the preliminary  
15 home study may be required by the court for good cause shown.  
16 The department is required to perform the preliminary home  
17 study only if there is no licensed child-placing agency,  
18 licensed professional, or agency described in s. 61.20(2), in  
19 the county where the prospective adoptive parents reside. The  
20 preliminary home study must be made to determine the  
21 suitability of the intended adoptive parents and may be  
22 completed prior to identification of a prospective adoptive  
23 minor child. A favorable preliminary home study is valid for  
24 1 year after the date of its completion. A minor may child  
25 ~~must~~ not be placed in an intended adoptive home before a  
26 favorable preliminary home study is completed unless the  
27 adoptive home is also a licensed foster home under s. 409.175.  
28 The preliminary home study must include, at a minimum:

- 29 (a) An interview with the intended adoptive parents;  
30 (b) Records checks of the department's central abuse  
31 registry under chapter 415 and statewide criminal records



- 1 correspondence checks through the Department of Law  
2 Enforcement on the intended adoptive parents;
- 3 (c) An assessment of the physical environment of the  
4 home;
- 5 (d) A determination of the financial security of the  
6 intended adoptive parents;
- 7 (e) Documentation of counseling and education of the  
8 intended adoptive parents on adoptive parenting;
- 9 (f) Documentation that information on adoption and the  
10 adoption process has been provided to the intended adoptive  
11 parents;
- 12 (g) Documentation that information on support services  
13 available in the community has been provided to the intended  
14 adoptive parents; and
- 15 (h) A copy of each ~~the~~ signed acknowledgement  
16 ~~statement~~ required by s. 63.085~~7~~ and  
17 ~~(i) A copy of the written acknowledgment required by~~  
18 ~~s. 63.085(1)~~.

19  
20 If the preliminary home study is favorable, a minor may be  
21 placed in the home pending entry of the judgment of adoption.  
22 A minor may not be placed in the home if the preliminary home  
23 study is unfavorable. If the preliminary home study is  
24 unfavorable, the intermediary or petitioner may, within 20  
25 days after receipt of a copy of the written recommendation,  
26 petition the court to determine the suitability of the  
27 intended adoptive home. A determination as to suitability  
28 under this subsection does not act as a presumption of  
29 suitability at the final hearing. In determining the  
30 suitability of the intended adoptive home, the court must  
31 consider the totality of the circumstances in the home.

1 Section 18. Section 63.097, Florida Statutes, is  
2 amended to read:

3 63.097 Fees.--

4 (1) The following fees, costs, and expenses may be  
5 assessed by the adoption entity or paid by the adoption entity  
6 on behalf of the prospective adoptive parents:

7 (a) Reasonable living expenses of the birth mother  
8 which the birth mother is unable to pay due to involuntary  
9 unemployment, medical disability due to the pregnancy which is  
10 certified by a medical professional who has examined the birth  
11 mother, or any other disability defined in s. 110.215.

12 Reasonable living expenses are rent, utilities, basic  
13 telephone service, food, necessary clothing, transportation,  
14 and items included in the affidavit filed under s. 63.132 and  
15 found by the court to be necessary for the health of the  
16 unborn child.

17 (b) Reasonable and necessary medical expenses.

18 (c) Expenses necessary to comply with the requirements  
19 of this chapter including, but not limited to, service of  
20 process under s. 63.088, a due diligence search under s.  
21 63.088, a preliminary home study under s. 63.092, and a final  
22 home study under s. 63.125.

23 (d) Court filing expenses, court costs, and other  
24 litigation expenses.

25 (e) Costs associated with advertising under s.  
26 63.212(1)(h).

27 (f) The following professional fees:

28 1. A reasonable hourly fee necessary to provide legal  
29 representation to the adoptive parents in a proceeding filed  
30 under this chapter.

31

1           2. A reasonable hourly fee for contact with the birth  
2 parent related to the adoption. In determining a reasonable  
3 hourly fee under this subparagraph, the court must consider if  
4 the tasks done were clerical or of such a nature that the  
5 matter could have been handled by support staff at a lesser  
6 rate than the rate for legal representation charged under  
7 subparagraph 1. This includes, but need not be limited to,  
8 tasks such as transportation, transmitting funds, arranging  
9 appointments, and securing accommodations. This does not  
10 include obtaining a birth parent's signature on any document.

11           3. A reasonable hourly fee for counseling services  
12 provided to a birth parent or adoptive parent by a  
13 psychologist licensed under chapter 490 or a clinical social  
14 worker, marriage and family therapist, or mental health  
15 counselor licensed under chapter 491.

16           (2) Prior approval of the court is not required until  
17 the cumulative total of amounts permitted under subsection (1)  
18 exceeds:

19           (a) \$2,500 in legal or other fees;

20           (b) \$500 in court costs; or

21           (c) \$3,000 in expenditures.

22           (3) Any fees, costs, or expenditures not included in  
23 subsection (1) or prohibited under subsection (4) require  
24 court approval prior to payment and must be based on a finding  
25 of extraordinary circumstances.

26           (4) The following fees, costs, and expenses are  
27 prohibited:

28           1. Any fee or expense that constitutes payment for  
29 locating a minor for adoption.

30           2. Cumulative expenses in excess of a total of \$500  
31 related to the minor, the pregnancy, a birth parent, or

1 adoption proceeding which are incurred prior to the date the  
2 prospective adoptive parent retains the adoption entity.

3 3. Any lump-sum payment to the entity which is  
4 nonrefundable directly to the payor or which is not itemized  
5 on the affidavit filed under s. 63.132.

6 4. Any fee on the affidavit which does not specify the  
7 service that was provided and for which the fee is being  
8 charged, such as a fee for facilitation, acquisition, or other  
9 similar service, or which does not identify the date the  
10 service was provided, the time required to provide the  
11 service, the person or entity providing the service, and the  
12 hourly fee charged.

13 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~  
14 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~  
15 ~~\$2,500, paid to an intermediary other than actual, documented~~  
16 ~~medical costs, court costs, and hospital costs must be~~  
17 ~~approved by the court prior to assessment of the fee by the~~  
18 ~~intermediary and upon a showing of justification for the~~  
19 ~~larger fee.~~

20 ~~(5)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--When an~~  
21 ~~intermediary uses the services of a licensed child-placing~~  
22 ~~agency, a professional, any other person or agency pursuant to~~  
23 ~~s. 63.092, or, if necessary, the department, the person~~  
24 ~~seeking to adopt the child must pay the licensed child-placing~~  
25 ~~agency, professional, other person or agency, or the~~  
26 ~~department an amount equal to the cost of all services~~  
27 ~~performed, including, but not limited to, the cost of~~  
28 ~~conducting the preliminary home study, counseling, and the~~  
29 ~~final home investigation. The court, upon a finding that the~~  
30 ~~person seeking to adopt the child is financially unable to pay~~  
31 ~~that amount, may order that such person pay a lesser amount.~~

1           Section 19. Section 63.102, Florida Statutes, is  
2 amended to read:

3           63.102 Filing of petition; venue; proceeding for  
4 approval of fees and costs.--

5           (1) After a court order terminating parental rights  
6 has been issued, a proceeding for adoption ~~may~~ shall be  
7 commenced by filing a petition entitled, "In the Matter of the  
8 Adoption of ...." in the circuit court. The person to be  
9 adopted shall be designated in the caption in the name by  
10 which he or she is to be known if the petition is granted. ~~if~~  
11 ~~the child is placed for adoption by an agency~~, Any name by  
12 which the minor child was previously known ~~may~~ shall not be  
13 disclosed in the petition, the notice of hearing, or the  
14 judgment of adoption.

15           (2) A petition for adoption or for a declaratory  
16 statement as to the adoption contract shall be filed in the  
17 county where the petitioner or petitioners or the minor child  
18 resides or where the agency or intermediary with ~~in~~ which the  
19 minor child has been placed is located.

20           (3) Except for adoptions involving placement of a  
21 minor child with a relative within the third degree of  
22 consanguinity, a petition for adoption in an adoption handled  
23 by an intermediary shall be filed within 30 working days after  
24 placement of a minor child with a parent seeking to adopt the  
25 minor child. If no petition is filed within 30 days, any  
26 interested party, including the state, may file an action  
27 challenging the prospective adoptive parent's physical custody  
28 of the minor child.

29           (4) If the filing of the petition for adoption or for  
30 a declaratory statement as to the adoption contract in the  
31 county where the petitioner or minor child resides would tend

1 to endanger the privacy of the petitioner or minor child, the  
2 petition for adoption may be filed in a different county,  
3 provided the substantive rights of any person will not thereby  
4 be affected.

5 (5) A proceeding for prior approval of fees and costs  
6 may be commenced any time after an agreement is reached  
7 between the birth mother and the adoptive parents by filing a  
8 petition for declaratory statement on the agreement entitled  
9 "In the Matter of the Proposed Adoption of a Minor Child" in  
10 the circuit court.

11 (a) The petition must be filed jointly by the adoption  
12 entity and each person who enters into the agreement.

13 (b) A contract for the payment of fees, costs, and  
14 expenditures permitted under this chapter must be in writing,  
15 and any person who enters into the contract has 3 business  
16 days in which to cancel the contract. To cancel the contract,  
17 the person must notify the adoption entity in writing by  
18 certified United States mail, return receipt requested, no  
19 later than 3 business days after signing the contract. For the  
20 purposes of this subsection, the term "business day" means a  
21 day on which the United States Post Office accepts certified  
22 mail for delivery. If the contract is canceled within the  
23 first 3 business days, the person who cancels the contract  
24 does not owe any legal, intermediary, or other fees, but may  
25 be responsible for the adoption entity's actual costs during  
26 that time.

27 (c) The court may grant prior approval only of fees  
28 and expenditures permitted under s. 63.097. A prior approval  
29 of prospective fees and costs does not create a presumption  
30 that these items will subsequently be approved by the court  
31 under s. 63.132 unless such a finding is supported by the

1 evidence submitted at that time. The court retains  
2 jurisdiction to order an adoption entity to refund to the  
3 person who enters into the contract any sum or portion of a  
4 sum preapproved under this subsection if, upon submission of a  
5 complete accounting of fees, costs, and expenses in an  
6 affidavit required under s. 63.132, the court finds the fees,  
7 costs, and expenses actually incurred to be less than the sums  
8 approved prospectively under this subsection.

9 (d) The contract may not require, and the court may  
10 not approve, any lump-sum payment to the entity which is  
11 nonrefundable to the payor or any amount that constitutes  
12 payment for locating a minor for adoption.

13 (e) If a petition for adoption is filed under this  
14 section subsequent to the filing of a petition for a  
15 declaratory statement or a petition to terminate parental  
16 rights pending adoption, the previous petition may, at the  
17 request of any party or on the court's own motion, be  
18 consolidated with the petition for adoption. If the petition  
19 for adoption is consolidated with a prior petition filed under  
20 this chapter for which a filing fee has been paid, the  
21 petitioner may not be charged any subsequent or additional  
22 filing fee.

23 (f) Prior approval of fees and costs by the court does  
24 not obligate the birth parent to ultimately relinquish the  
25 minor for adoption.~~If a petition for adoption is subsequently~~  
26 ~~filed, the petition for declaratory statement and the petition~~  
27 ~~for adoption must be consolidated into one case.~~

28 Section 20. Section 63.112, Florida Statutes, is  
29 amended to read:

30 63.112 Petition for adoption; description; report or  
31 recommendation, exceptions; mailing.--

1 (1) A sufficient number of copies of the petition for  
2 adoption shall be signed and verified by the petitioner and  
3 filed with the clerk of the court so that service may be made  
4 under subsection (4) and shall state:

5 (a) The date and place of birth of the person to be  
6 adopted, if known;

7 (b) The name to be given to the person to be adopted;

8 (c) The date petitioner acquired custody of the minor  
9 and the name of the person placing the minor;

10 (d) The full name, age, and place and duration of  
11 residence of the petitioner;

12 (e) The marital status of the petitioner, including  
13 the date and place of marriage, if married, and divorces, if  
14 any;

15 (f) The facilities and resources of the petitioner,  
16 including those under a subsidy agreement, available to  
17 provide for the care of the minor to be adopted;

18 (g) A description and estimate of the value of any  
19 property of the person to be adopted;

20 (h) The case style and date of entry of the order  
21 terminating parental rights or the judgment declaring a minor  
22 available for adoption ~~name and address, if known, of any~~  
23 ~~person whose consent to the adoption is required, but who has~~  
24 ~~not consented, and facts or circumstances that excuse the lack~~  
25 ~~of consent; and~~

26 (i) The reasons why the petitioner desires to adopt  
27 the person.

28 (2) The following documents are required to be filed  
29 with the clerk of the court at the time the petition is filed:

30 (a) A certified copy of the court order terminating  
31 parental rights under chapter 39 or the judgment declaring a



1 minor available for adoption under this chapter ~~The required~~  
2 ~~consents, unless consent is excused by the court.~~

3 (b) The favorable preliminary home study of the  
4 department, licensed child-placing agency, or professional  
5 pursuant to s. 63.092, as to the suitability of the home in  
6 which the minor has been placed.

7 (c) The surrender document must include documentation  
8 that an interview was ~~interviews were~~ held with:

9 ~~1. The birth mother, if parental rights have not been~~  
10 ~~terminated;~~

11 ~~2. The birth father, if his consent to the adoption is~~  
12 ~~required and parental rights have not been terminated; and~~

13 ~~3. the minor child, if older than 12 years of age,~~  
14 unless the court, in the best interest of the minor child,  
15 dispenses with the minor's ~~child's~~ consent under s.  
16 63.062(1)(e) ~~63.062(1)(c)~~.

17  
18 ~~The court may waive the requirement for an interview with the~~  
19 ~~birth mother or birth father in the investigation for good~~  
20 ~~cause shown.~~

21 (3) Unless ordered by the court, no report or  
22 recommendation is required when the placement is a stepparent  
23 adoption or when the minor child is related to one of the  
24 adoptive parents within the third degree.

25 (4) The clerk of the court shall mail a copy of the  
26 petition within 24 hours after filing, and execute a  
27 certificate of mailing, to the department and the agency  
28 placing the minor, if any.

29 Section 21. Section 63.122, Florida Statutes, is  
30 amended to read:

31 63.122 Notice of hearing on petition.--

1           (1) After the petition to adopt a minor is filed, the  
2 court must establish a time and place for hearing the  
3 petition. The hearing ~~may~~ must not be held sooner than 30 days  
4 after the date the judgment terminating parental rights was  
5 entered or sooner than 90 days after the date the minor was  
6 placed ~~the placing of the minor~~ in the physical custody of the  
7 petitioner. The minor must remain under the supervision of  
8 the department, an intermediary, or a licensed child-placing  
9 agency until the adoption becomes final. When the petitioner  
10 is a spouse of the birth parent, the hearing may be held  
11 immediately after the filing of the petition.

12           (2) Notice of hearing must be given as prescribed by  
13 the rules of civil procedure, and service of process must be  
14 made as specified by law for civil actions.

15           (3) Upon a showing by the petitioner that the privacy  
16 of the petitioner or minor child may be endangered, the court  
17 may order the names of the petitioner or minor child, or both,  
18 to be deleted from the notice of hearing and from the copy of  
19 the petition attached thereto, provided the substantive rights  
20 of any person will not thereby be affected.

21           (4) Notice of the hearing must be given by the  
22 petitioner to the adoption entity that places the minor.+

23           ~~(a) The department or any licensed child-placing~~  
24 ~~agency placing the minor.~~

25           ~~(b) The intermediary.~~

26           ~~(c) Any person whose consent to the adoption is~~  
27 ~~required by this act who has not consented, unless such~~  
28 ~~person's consent is excused by the court.~~

29           ~~(d) Any person who is seeking to withdraw consent.~~

30           (5) After filing the petition to adopt an adult, a  
31 notice of the time and place of the hearing must be given to

1 any person whose consent to the adoption is required but who  
2 has not consented. The court may order an appropriate  
3 investigation to assist in determining whether the adoption is  
4 in the best interest of the persons involved.

5 Section 22. Section 63.125, Florida Statutes, is  
6 amended to read:

7 63.125 Final home investigation.--

8 (1) The final home investigation must be conducted  
9 before the adoption becomes final. The investigation may be  
10 conducted by a licensed child-placing agency or a professional  
11 in the same manner as provided in s. 63.092 to ascertain  
12 whether the adoptive home is a suitable home for the minor and  
13 whether the proposed adoption is in the best interest of the  
14 minor. Unless directed by the court, an investigation and  
15 recommendation are not required if the petitioner is a  
16 stepparent or if the minor ~~child~~ is related to one of the  
17 adoptive parents within the third degree of consanguinity.  
18 The department is required to perform the home investigation  
19 only if there is no licensed child-placing agency or  
20 professional pursuant to s. 63.092 in the county in which the  
21 prospective adoptive parent resides.

22 (2) The department, the licensed child-placing agency,  
23 or the professional that performs the investigation must file  
24 a written report of the investigation with the court and the  
25 petitioner within 90 days after the date the petition is  
26 filed.

27 (3) The report of the investigation must contain an  
28 evaluation of the placement with a recommendation on the  
29 granting of the petition for adoption and any other  
30 information the court requires regarding the petitioner or the  
31 minor.

1 (4) The department, the licensed child-placing agency,  
2 or the professional making the required investigation may  
3 request other state agencies or child-placing agencies within  
4 or outside this state to make investigations of designated  
5 parts of the inquiry and to make a written report to the  
6 department, the professional, or other person or agency.

7 (5) The final home investigation must include:

8 (a) The information from the preliminary home study.

9 (b) After the minor child is placed in the intended  
10 adoptive home, two scheduled visits with the minor child and  
11 the minor's child's adoptive parent or parents, one of which  
12 visits must be in the home, to determine the suitability of  
13 the placement.

14 (c) The family social and medical history as provided  
15 in s. 63.082.

16 (d) Any other information relevant to the suitability  
17 of the intended adoptive home.

18 (e) Any other relevant information, as provided in  
19 rules that the department may adopt.

20 Section 23. Section 63.132, Florida Statutes, is  
21 amended to read:

22 63.132 Affidavit ~~Report~~ of expenditures and  
23 receipts.--

24 (1) At least 10 days before the hearing on the  
25 petition for adoption, the petitioner and any adoption entity  
26 intermediary must file two copies of an affidavit under this  
27 section.

28 (a) The affidavit must be signed by the adoption  
29 entity and the prospective adoptive parents. A copy of the  
30 affidavit must be provided to the adoptive parents at the time  
31 the affidavit is executed.

1           **(b)** The affidavit must itemize ~~containing a full~~  
2 ~~accounting of~~ all disbursements and receipts of anything of  
3 value, including professional and legal fees, made or agreed  
4 to be made by or on behalf of the petitioner and any adoption  
5 entity intermediary in connection with the adoption or in  
6 connection with any prior proceeding to terminate parental  
7 rights which involved the minor who is the subject of the  
8 petition for adoption. The affidavit must also include, for  
9 each fee itemized, the service provided for which the fee is  
10 being charged, the date the service was provided, the time  
11 required to provide the service, the person or entity that  
12 provided the service, and the hourly fee charged.

13           **(c)** The clerk of the court shall forward a copy of the  
14 affidavit to the department. The department must retain these  
15 records for 5 years. Copies of affidavits received by the  
16 department under this subsection must be provided upon the  
17 request of any person. The department must redact all  
18 identifying references to the minor, the birth parent, or the  
19 adoptive parent from any affidavit released by the department.  
20 The name of the adoption entity may not be redacted. The  
21 intent of this paragraph is to create a resource for adoptive  
22 parents and others wishing to obtain information about the  
23 cost of adoption in this state.

24           **(d)** The affidavit ~~report~~ must show any expenses or  
25 receipts incurred in connection with:

- 26           1.~~(a)~~ The birth of the minor.  
27           2.~~(b)~~ The placement of the minor with the petitioner.  
28           3.~~(c)~~ The medical or hospital care received by the  
29 mother or by the minor during the mother's prenatal care and  
30 confinement.

31

1           ~~4.(d)~~ The living expenses of the birth mother. The  
2 living expenses must be documented in detail to apprise the  
3 court of the exact expenses incurred.

4           ~~5.(e)~~ The services relating to the adoption or to the  
5 placement of the minor for adoption that were received by or  
6 on behalf of the petitioner, the adoption entity intermediary,  
7 either birth natural parent, the minor, or any other person.

8  
9 The affidavit must state whether any of these expenses were or  
10 are eligible to be paid for by collateral sources, including,  
11 but not limited to, health insurance, Medicaid, Medicare, or  
12 public assistance.

13           (2) The court may require such additional information  
14 as is deemed necessary.

15           (3) The court must issue a separate order approving or  
16 disapproving the fees, costs, and expenditures itemized in the  
17 affidavit. The court may approve only fees, costs, and  
18 expenditures allowed under s. 63.097. The court may reject in  
19 whole or in part any fee, cost, or expenditure listed if the  
20 court finds that the expense is:

21           (a) Contrary to this chapter;

22           (b) Not supported by a receipt in the record, if the  
23 expense is not a fee of the adoption entity; or

24           (c) Not deemed by the court to be a reasonable fee or  
25 expense, taking into consideration the requirements of this  
26 chapter and the totality of the circumstances.

27           ~~(4)(3)~~ This section does not apply to an adoption by a  
28 stepparent whose spouse is a birth natural or adoptive parent  
29 of the minor child.

30           Section 24. Section 63.142, Florida Statutes, is  
31 amended to read:

- 1           63.142 Hearing; judgment of adoption.--
- 2           (1) APPEARANCE.--The petitioner and the person to be
- 3 adopted shall appear at the hearing on the petition for
- 4 adoption, unless:
- 5           (a) The person is a minor under 12 years of age;~~or~~
- 6           (b) The presence of either is excused by the court for
- 7 good cause.
- 8           (2) CONTINUANCE.--The court may continue the hearing
- 9 from time to time to permit further observation,
- 10 investigation, or consideration of any facts or circumstances
- 11 affecting the granting of the petition.
- 12           (3) DISMISSAL.--
- 13           (a) If the petition is dismissed, the court shall
- 14 determine the person that is to have custody of the minor.
- 15           (b) If the petition is dismissed, the court shall
- 16 state with specificity the reasons for the dismissal.
- 17           (4) JUDGMENT.--At the conclusion of the hearing, after
- 18 ~~when~~ the court determines that the date for a birth parent to
- 19 file an appeal of a valid judgment terminating that birth
- 20 parent's parental rights has passed and no appeal is pending
- 21 ~~all necessary consents have been obtained~~ and that the
- 22 adoption is in the best interest of the person to be adopted,
- 23 a judgment of adoption shall be entered.
- 24           (a) A judgment terminating parental rights pending
- 25 adoption is voidable and any later judgment of adoption of
- 26 that minor is voidable if, upon the motion of the birth
- 27 parent, the court finds that any person knowingly gave false
- 28 information that prevented the birth parent from timely making
- 29 known his or her desire to assume parental responsibilities
- 30 toward the minor or meeting the requirements under this
- 31 chapter to exercise his or her parental rights. A motion under

1 this paragraph must be filed with the court that entered the  
2 original judgment. The motion must be filed within a  
3 reasonable time, but not later than 1 year after the date the  
4 termination of parental rights final order was entered.

5 (b) Not later than 30 days after the filing of a  
6 motion under this subsection, the court must conduct a  
7 preliminary hearing to determine what contact, if any, shall  
8 be permitted between a birth parent and the child pending  
9 resolution of the motion. Such contact shall only be  
10 considered if it is requested by a birth parent who has  
11 appeared at the hearing. If the court orders contact between a  
12 birth parent and child, the order must be issued in writing as  
13 expeditiously as possible and must state with specificity any  
14 provisions regarding contact with persons other than those  
15 with whom the child resides.

16 (c) At the preliminary hearing, the court, upon the  
17 motion of any party or its own motion, may order scientific  
18 testing to determine the paternity of the minor if the person  
19 seeking to set aside the judgment is alleging to be the  
20 child's birth father and that fact has not previously been  
21 determined by legitimacy or scientific testing. The court may  
22 order supervised visitation with a person from whom scientific  
23 testing for paternity has been ordered conditional upon the  
24 filing of those test results with the court and such results  
25 establish that person's paternity of the minor.

26 (d) No later than 45 days after the preliminary  
27 hearing, the court must conduct a final hearing on the motion  
28 to set aside the judgment and issue its written order as  
29 expeditiously as possible thereafter.

30 Section 25. Section 63.152, Florida Statutes, is  
31 amended to read:



1           63.152 Application for new birth record.--Within 30  
2 days after entry of a judgment of adoption, the clerk of the  
3 court, and in agency adoptions, any child-placing agency  
4 licensed by the department, shall prepare a certified  
5 statement of the entry for the state registrar of vital  
6 statistics on a form provided by the registrar. The clerk of  
7 the court must mail a copy of the form completed under this  
8 section to the state registry of adoption information under s.  
9 63.165.A new birth record containing the necessary  
10 information supplied by the certificate shall be issued by the  
11 registrar on application of the adopting parents or the  
12 adopted person.

13           Section 26. Section 63.165, Florida Statutes, is  
14 amended to read:

15           63.165 State registry of adoption information; duty to  
16 inform and explain.--Notwithstanding any other law to the  
17 contrary, the department shall maintain a registry with the  
18 last known names and addresses of an adoptee and his or her  
19 birth ~~natural~~ parents and adoptive parents; the certified  
20 statement of the final decree of adoption provided by the  
21 clerk of the court under s. 63.152;and any other identifying  
22 information ~~that~~ ~~which~~ the adoptee, birth ~~natural~~ parents, or  
23 adoptive parents desire to include in the registry. The  
24 department shall maintain the registry records for the time  
25 required by rules adopted by the department in accordance with  
26 this chapter or for 99 years, whichever period is greater.The  
27 registry shall be open with respect to all adoptions in the  
28 state, regardless of when they took place. The registry shall  
29 be available for those persons choosing to enter information  
30 therein, but no one shall be required to do so.

31

1           (1) Anyone seeking to enter, change, or use  
2 information in the registry, or any agent of such person,  
3 shall present verification of his or her identity and, if  
4 applicable, his or her authority. A person who enters  
5 information in the registry shall be required to indicate  
6 clearly the persons to whom he or she is consenting to release  
7 this information, which persons shall be limited to the  
8 adoptee and the birth ~~natural~~ mother, birth ~~natural~~ father,  
9 adoptive mother, adoptive father, birth ~~natural~~ siblings, and  
10 maternal and paternal birth ~~natural~~ grandparents of the  
11 adoptee. Except as provided in this section, information in  
12 the registry is confidential and exempt from ~~the provisions of~~  
13 s. 119.07(1). Consent to the release of this information may  
14 be made in the case of a minor adoptee by his or her adoptive  
15 parents or by the court after a showing of good cause. At any  
16 time, any person may withdraw, limit, or otherwise restrict  
17 consent to release information by notifying the department in  
18 writing.

19           (2) The department may charge a reasonable fee to any  
20 person seeking to enter, change, or use information in the  
21 registry. The department shall deposit such fees in a trust  
22 fund to be used by the department only for the efficient  
23 administration of this section. The department and agencies  
24 shall make counseling available for a fee to all persons  
25 seeking to use the registry, and the department shall inform  
26 all affected persons of the availability of such counseling.

27           (3) The department, intermediary, or licensed  
28 child-placing agency must inform the birth parents before  
29 parental rights are terminated, and the adoptive parents  
30 before placement, in writing, of the existence and purpose of  
31 the registry established under this section, but failure to do

1 so does not affect the validity of any proceeding under this  
2 chapter.

3 Section 27. Section 63.182, Florida Statutes, is  
4 amended to read:

5 (Substantial rewording of section. See  
6 s. 63.182, F.S., for present text.)  
7 63.182 Statute of repose.--An action or proceeding of  
8 any kind to vacate, set aside, or otherwise nullify an order  
9 of adoption or an underlying order terminating parental rights  
10 on any ground, including fraud or duress, must be filed within  
11 1 year after entry of the order terminating parental rights.

12 Section 28. Section 63.207, Florida Statutes, is  
13 amended to read:

14 63.207 Out-of-state placement.--

15 (1) Unless the minor child is to be placed with a  
16 relative within the third degree or with a stepparent, or is a  
17 special needs child as defined in s. 409.166, an adoption  
18 entity may not ~~no person except an intermediary, an agency, or~~  
19 ~~the department shall:~~

20 (a) Take or send a minor child out of the state for  
21 the purpose of placement for adoption; or

22 (b) Place or attempt to place a minor child for the  
23 purpose of adoption with a family who primarily lives and  
24 works outside Florida in another state. ~~An intermediary may~~  
25 ~~place or attempt to place a child for adoption in another~~  
26 ~~state only if the child is a special needs child as that term~~  
27 ~~is defined in s. 409.166. If an adoption entity intermediary~~  
28 ~~is acting under this subsection, the adoption entity must~~  
29 ~~intermediary shall~~ file a petition for declaratory statement  
30 pursuant to s. 63.102 for prior approval of fees and costs.  
31 The court shall review the costs pursuant to s. 63.097. The

1 petition for declaratory statement must be converted to a  
2 petition for an adoption upon placement of the minor child in  
3 the home. The circuit court in this state must retain  
4 jurisdiction over the matter until the adoption becomes final.  
5 The adoptive parents must come to this state to have the  
6 adoption finalized. Violation of the order subjects the  
7 adoption entity intermediary to contempt of court and to the  
8 penalties provided in s. 63.212.

9 (2) An adoption entity intermediary may not counsel a  
10 birth mother to leave the state for the purpose of giving  
11 birth to a child outside the state in order to secure a fee in  
12 excess of that permitted under s. 63.097 when it is the  
13 intention that the child is to be placed for adoption outside  
14 the state.

15 (3) When applicable, the Interstate Compact on the  
16 Placement of Children authorized in s. 409.401 shall be used  
17 in placing children outside the state for adoption.

18 Section 29. Section 63.212, Florida Statutes, is  
19 amended to read:

20 63.212 Prohibited acts; penalties for violation.--

21 (1) It is unlawful for any person:

22 (a) Except an adoption entity ~~the department, an~~  
23 ~~intermediary, or an agency,~~ to place or attempt to place a  
24 minor child for adoption with a person who primarily lives and  
25 works outside this state unless the minor child is placed with  
26 a relative within the third degree or with a stepparent or is  
27 a special needs child as defined in s. 409.166. An adoption  
28 entity intermediary may place or attempt to place a special  
29 needs child for adoption with a person who primarily lives and  
30 works outside this state only if the adoption entity  
31 ~~intermediary~~ has a declaratory statement from the court

1 establishing the fees to be paid under s. 63.207. This  
2 requirement does not apply if the minor child is placed with a  
3 relative within the third degree or with a stepparent.

4 (b) Except an adoption entity ~~the department, an~~  
5 ~~intermediary, or an agency~~, to place or attempt to place a  
6 minor child for adoption with a family whose primary residence  
7 and place of employment is in another state unless the minor  
8 child is placed with a relative within the third degree or  
9 with a stepparent. An adoption entity ~~intermediary~~ may place  
10 or attempt to place a special needs child for adoption with a  
11 family whose primary residence and place of employment is in  
12 another state only if the adoption entity ~~intermediary~~ has a  
13 declaratory statement from the court establishing the fees to  
14 be paid. This requirement does not apply if the special needs  
15 child is placed with a relative within the third degree or  
16 with a stepparent.

17 (c) Except an adoption entity ~~the Department of~~  
18 ~~Children and Family Services, an agency, or an intermediary~~,  
19 to place or attempt to place within the state a minor child  
20 for adoption unless the minor child is placed with a relative  
21 within the third degree or with a stepparent. This  
22 prohibition, however, does not apply to a person who is  
23 placing or attempting to place a minor child for the purpose  
24 of adoption with the adoption entity ~~Department of Children~~  
25 ~~and Family Services or an agency or through an intermediary~~.

26 (d) To sell or surrender, or to arrange for the sale  
27 or surrender of, a minor child to another person for money or  
28 anything of value or to receive such minor child for such  
29 payment or thing of value. If a minor child is being adopted  
30 by a relative within the third degree or by a stepparent, or  
31 is being adopted through an adoption entity, this paragraph

1 ~~does not prohibit the Department of Children and Family~~  
2 ~~Services, an agency, or an intermediary, nothing herein shall~~  
3 ~~be construed as prohibiting~~ the person who is contemplating  
4 adopting the child from paying, under s. 63.097 and s. 63.132,  
5 the actual prenatal care and living expenses of the mother of  
6 the child to be adopted, nor from paying, under s. 63.097 and  
7 s. 63.132, the actual living and medical expenses of such  
8 mother for a reasonable time, not to exceed 6 weeks, if  
9 medical needs require such support, after the birth of the  
10 minor child.

11 (e) Having the rights and duties of a parent with  
12 respect to the care and custody of a minor to assign or  
13 transfer such parental rights for the purpose of, incidental  
14 to, or otherwise connected with, selling or offering to sell  
15 such rights and duties.

16 (f) To assist in the commission of any act prohibited  
17 in paragraph (a), paragraph (b), paragraph (c), paragraph (d),  
18 or paragraph (e).

19 (g) Except an adoption entity ~~the Department of~~  
20 ~~Children and Family Services or an agency,~~ to charge or accept  
21 any fee or compensation of any nature from anyone for making a  
22 referral in connection with an adoption.

23 (h) Except an adoption entity ~~the Department of~~  
24 ~~Children and Family Services, an agency, or an intermediary,~~  
25 to advertise or offer to the public, in any way, by any medium  
26 whatever that a minor child is available for adoption or that  
27 a minor child is sought for adoption; and further, it is  
28 unlawful for any person to publish or broadcast any such  
29 advertisement without including a Florida license number of  
30 the agency ~~or, attorney, or physician~~ placing the  
31 advertisement.

1           (i) To contract for the purchase, sale, or transfer of  
2 custody or parental rights in connection with any child, ~~or~~ in  
3 connection with any fetus yet unborn, or in connection with  
4 any fetus identified in any way but not yet conceived, in  
5 return for any valuable consideration. Any such contract is  
6 void and unenforceable as against the public policy of this  
7 state. However, fees, costs, and other incidental payments  
8 made in accordance with statutory provisions for adoption,  
9 foster care, and child welfare are permitted, and a person may  
10 agree to pay expenses in connection with a preplanned adoption  
11 agreement as specified below, but the payment of such expenses  
12 may not be conditioned upon the transfer of parental rights.  
13 Each petition for adoption which is filed in connection with a  
14 preplanned adoption agreement must clearly identify the  
15 adoption as a preplanned adoption arrangement and must include  
16 a copy of the preplanned adoption agreement for review by the  
17 court.

18           1. Individuals may enter into a preplanned adoption  
19 arrangement as specified herein, but such arrangement shall  
20 not in any way:

21           a. Effect final transfer of custody of a child or  
22 final adoption of a child, without review and approval of the  
23 department and the court, and without compliance with other  
24 applicable provisions of law.

25           b. Constitute consent of a mother to place her child  
26 for adoption until 7 days following birth, and unless the  
27 court making the custody determination or approving the  
28 adoption determines that the mother was aware of her right to  
29 rescind within the 7-day period following birth but chose not  
30 to rescind such consent.

31

1           2. A preplanned adoption arrangement shall be based  
2 upon a preplanned adoption agreement that must ~~which shall~~  
3 include, but need not be limited to, the following terms:

4           a. That the volunteer mother agrees to become pregnant  
5 by the fertility technique specified in the agreement, to bear  
6 the child, and to terminate any parental rights and  
7 responsibilities to the child she might have through a written  
8 consent executed at the same time as the preplanned adoption  
9 agreement, subject to a right of rescission by the volunteer  
10 mother any time within 7 days after the birth of the child.

11           b. That the volunteer mother agrees to submit to  
12 reasonable medical evaluation and treatment and to adhere to  
13 reasonable medical instructions about her prenatal health.

14           c. That the volunteer mother acknowledges that she is  
15 aware that she will assume parental rights and  
16 responsibilities for the child born to her as otherwise  
17 provided by law for a mother, if the intended father and  
18 intended mother terminate the agreement before final transfer  
19 of custody is completed, or if a court determines that a  
20 parent clearly specified by the preplanned adoption agreement  
21 to be the biological parent is not the biological parent, or  
22 if the preplanned adoption is not approved by the court  
23 pursuant to the Florida Adoption Act.

24           d. That an intended father who is also the biological  
25 father acknowledges that he is aware that he will assume  
26 parental rights and responsibilities for the child as  
27 otherwise provided by law for a father, if the agreement is  
28 terminated for any reason by any party before final transfer  
29 of custody is completed or if the planned adoption is not  
30 approved by the court pursuant to the Florida Adoption Act.

31



1 e. That the intended father and intended mother  
2 acknowledge that they may not receive custody or the parental  
3 rights under the agreement if the volunteer mother terminates  
4 the agreement or if the volunteer mother rescinds her consent  
5 to place her child for adoption within 7 days after birth.

6 f. That the intended father and intended mother may  
7 agree to pay all reasonable legal, medical, psychological, or  
8 psychiatric expenses of the volunteer mother related to the  
9 preplanned adoption arrangement, and may agree to pay the  
10 reasonable living expenses of the volunteer mother. No other  
11 compensation, whether in cash or in kind, shall be made  
12 pursuant to a preplanned adoption arrangement.

13 g. That the intended father and intended mother agree  
14 to accept custody of and to assert full parental rights and  
15 responsibilities for the child immediately upon the child's  
16 birth, regardless of any impairment to the child.

17 h. That the intended father and intended mother shall  
18 have the right to specify the blood and tissue typing tests to  
19 be performed if the agreement specifies that at least one of  
20 them is intended to be the biological parent of the child.

21 i. That the agreement may be terminated at any time by  
22 any of the parties.

23 3. A preplanned adoption agreement shall not contain  
24 any provision:

25 a. To reduce any amount paid to the volunteer mother  
26 if the child is stillborn or is born alive but impaired, or to  
27 provide for the payment of a supplement or bonus for any  
28 reason.

29 b. Requiring the termination of the volunteer mother's  
30 pregnancy.

31

1           4. An attorney who represents an intended father and  
2 intended mother or any other attorney with whom that attorney  
3 is associated shall not represent simultaneously a female who  
4 is or proposes to be a volunteer mother in any matter relating  
5 to a preplanned adoption agreement or preplanned adoption  
6 arrangement.

7           5. Payment to agents, finders, and intermediaries,  
8 including attorneys and physicians, as a finder's fee for  
9 finding volunteer mothers or matching a volunteer mother and  
10 intended father and intended mother is prohibited. Doctors,  
11 psychologists, attorneys, and other professionals may receive  
12 reasonable compensation for their professional services, such  
13 as providing medical services and procedures, legal advice in  
14 structuring and negotiating a preplanned adoption agreement,  
15 or counseling.

16           6. As used in this paragraph, the term:

17           a. "Blood and tissue typing tests" include, but are  
18 not limited to, tests of red cell antigens, red cell  
19 isoenzymes, human leukocyte antigens, and serum proteins.

20           b. "Child" means the child or children conceived by  
21 means of an insemination that is part of a preplanned adoption  
22 arrangement.

23           c. "Fertility technique" means artificial  
24 embryonation, artificial insemination, whether in vivo or in  
25 vitro, egg donation, or embryo adoption.

26           d. "Intended father" means a male who, as evidenced by  
27 a preplanned adoption agreement, intends to have the parental  
28 rights and responsibilities for a child conceived through a  
29 fertility technique, regardless of whether the child is  
30 biologically related to the male.

31

1 e. "Intended mother" means a female who, as evidenced  
2 by a preplanned adoption agreement, intends to have the  
3 parental rights and responsibilities for a child conceived  
4 through a fertility technique, regardless of whether the child  
5 is biologically related to the female.

6 f. "Parties" means the intended father and intended  
7 mother, the volunteer mother and her husband, if she has a  
8 husband, who are all parties to the preplanned adoption  
9 agreement.

10 g. "Preplanned adoption agreement" means a written  
11 agreement among the parties that specifies the intent of the  
12 parties as to their rights and responsibilities in the  
13 preplanned adoption arrangement, consistent with the  
14 provisions of this act.

15 h. "Preplanned adoption arrangement" means the  
16 arrangement through which the parties enter into an agreement  
17 for the volunteer mother to bear the child, for payment by the  
18 intended father and intended mother of the expenses allowed by  
19 this act, for the intended father and intended mother to  
20 assert full parental rights and responsibilities to the child  
21 if consent to adoption is not rescinded after birth by the  
22 volunteer mother, and for the volunteer mother to terminate,  
23 subject to a right of rescission, in favor of the intended  
24 father and intended mother all her parental rights and  
25 responsibilities to the child.

26 i. "Volunteer mother" means a female person at least  
27 18 years of age who voluntarily agrees, subject to a right of  
28 rescission, that if she should become pregnant pursuant to a  
29 preplanned adoption arrangement, she will terminate in favor  
30 of the intended father and intended mother her parental rights  
31 and responsibilities to the child.

1           (2) This section does not ~~Nothing herein shall be~~  
2 ~~construed to~~ prohibit a licensed child-placing agency from  
3 charging fees reasonably commensurate to the services  
4 provided.

5           (3) It is unlawful for any adoption entity  
6 ~~intermediary~~ to fail to report to the court, prior to  
7 placement, the intended placement of a minor child for  
8 purposes of adoption with any person not a stepparent or a  
9 relative within the third degree, if the adoption entity  
10 ~~intermediary~~ participates in such intended placement.

11           (4) It is unlawful for any adoption entity  
12 ~~intermediary~~ to charge any fee over \$1,000 and those costs as  
13 set out in paragraph (1)(d) over \$2,500, other than for actual  
14 documented medical costs, court costs, and hospital costs  
15 unless such fee is approved by the court prior to the  
16 assessment of the fee by the adoption entity intermediary and  
17 upon a showing of justification for the larger fee.

18           (5) It is unlawful for any adoption entity  
19 ~~intermediary~~ to counsel a birth mother to leave the state for  
20 the purpose of giving birth to a child outside the state in  
21 order to secure a fee in excess of that permitted under s.  
22 63.097 when it is the intention that the child be placed for  
23 adoption outside the state.

24           (6) It is unlawful for any adoption entity  
25 ~~intermediary~~ to obtain a preliminary home study or final home  
26 investigation and fail to disclose the existence of the study  
27 to the court.

28           (7) A person who violates any provision of this  
29 section, excluding paragraph (1)(h), is guilty of a felony of  
30 the third degree, punishable as provided in s. 775.082, s.  
31 775.083, or s. 775.084. A person who violates paragraph

1 (1)(h) is guilty of a misdemeanor of the second degree,  
2 punishable as provided in s. 775.083; and each day of  
3 continuing violation shall be considered a separate offense.

4 Section 30. Section 63.072, Florida Statutes, is  
5 repealed.

6 Section 31. Any petition for adoption filed before  
7 October 1, 1998, shall be governed by the law in effect at the  
8 time the petition was filed.

9 Section 32. This act shall take effect October 1,  
10 1998.

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