

Bill No. CS for SB 1598

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Campbell moved the following amendment to amendment (984346):

Senate Amendment (with title amendment)

On page 5, between lines 29 and 30,

insert:

Section 5. Section 39.703, Florida Statutes, 1998 Supplement, is amended to read:

39.703 Initiation of termination of parental rights proceedings; judicial review.--

(1) If, in preparation for any judicial review hearing under this chapter, it is the opinion of the social service agency that the parents of the child have not complied with their responsibilities as specified in the written case plan although able to do so, the department ~~social service agency~~ shall state its intent to initiate proceedings to terminate parental rights, unless the social service agency can demonstrate to the court that such a recommendation would not be in the child's best interests. If it is the intent of the department ~~or licensed child-placing agency~~ to initiate

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1 proceedings to terminate parental rights, the department ~~or~~
 2 ~~licensed child-placing agency~~ shall file a petition for
 3 termination of parental rights no later than 3 months after
 4 the date of the previous judicial review hearing. If the
 5 petition cannot be filed within 3 months, the department ~~or~~
 6 ~~licensed child-placing agency~~ shall provide a written report
 7 to the court outlining the reasons for delay, the progress
 8 made in the termination of parental rights process, and the
 9 anticipated date of completion of the process.

10 (2) If, at the time of the 12-month judicial review
 11 hearing, a child is not returned to the physical custody of
 12 the parents, caregivers, or legal custodians, the department
 13 ~~social service agency~~ shall initiate termination of parental
 14 rights proceedings under this chapter within 30 days. Only if
 15 the court finds that the situation of the child is so
 16 extraordinary and that the best interests of the child will be
 17 met by such action at the time of the judicial review may the
 18 case plan be extended. If the court decides to extend the
 19 plan, the court shall enter detailed findings justifying the
 20 decision to extend, as well as the length of the extension. A
 21 termination of parental rights petition need not be filed if:
 22 the child is being cared for by a relative who chooses not to
 23 adopt the child; the court determines that filing such a
 24 petition would not be in the best interests of the child; or
 25 the state has not provided the child's family, when reasonable
 26 efforts to return a child are required, consistent with the
 27 time period in the state's case plan, such services as the
 28 state deems necessary for the safe return of the child to his
 29 or her home. Failure to initiate termination of parental
 30 rights proceedings at the time of the 12-month judicial review
 31 or within 30 days after such review does not prohibit

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1 initiating termination of parental rights proceedings at any
2 other time.

3 Section 6. Subsections (1) and (2) of section 39.802,
4 Florida Statutes, 1998 Supplement, are amended to read:

5 39.802 Petition for termination of parental rights;
6 filing; elements.--

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

14 (2) The form of the petition is governed by the
15 Florida Rules of Juvenile Procedure. The petition must be in
16 writing and signed by the petitioner or, if the department is
17 the petitioner, by an employee of the department, under oath
18 stating the petitioner's good faith in filing the petition.

19 Section 7. Subsection (1) of section 39.806, Florida
20 Statutes, 1998 Supplement, is amended to read:

21 39.806 Grounds for termination of parental rights.--

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

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

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1 accept custody of the child.

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

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

9 (b) When the identity or location of the parent or
10 parents is unknown and cannot be ascertained by diligent
11 search 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, safety,
16 well-being, or physical, mental, or emotional health of the
17 child irrespective of the provision of services. Provision of
18 services may be evidenced by proof that services were provided
19 through a previous plan or offered as a case plan from a child
20 welfare agency.

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

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

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

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1 violation of s. 782.04 or a sexual battery that constitutes a
2 capital, life, or first degree felony violation of s. 794.011;
3 or has been convicted of an offense in another jurisdiction
4 which is substantially similar to one of the offenses listed
5 in this paragraph. As used in this section, the term
6 "substantially similar offense" means any offense that is
7 substantially similar in elements and penalties to one of
8 those listed in this paragraph, and that is in violation of a
9 law of any other jurisdiction, whether that of another state,
10 the District of Columbia, the United States or any possession
11 or territory thereof, or any foreign jurisdiction; and

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

17 (e) A petition for termination of parental rights may
18 also be filed when a child has been adjudicated dependent, a
19 case plan has been filed with the court, and the child
20 continues to be abused, neglected, or abandoned by the
21 parents. In this case, the failure of the parents to
22 substantially comply for a period of 12 months after an
23 adjudication of the child as a dependent child constitutes
24 evidence of continuing abuse, neglect, or abandonment unless
25 the failure to substantially comply with the case plan was due
26 either to the lack of financial resources of the parents or to
27 the failure of the department to make reasonable efforts to
28 reunify the family. Such 12-month period may begin to run only
29 after the entry of a disposition order placing the custody of
30 the child with the department or a person other than the
31 parent and the approval by the court of a case plan with a

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1 goal of reunification with the parent.

2 (f) When the parent or parents engaged in egregious
3 conduct or had the opportunity and capability to prevent and
4 knowingly failed to prevent egregious conduct that threatens
5 the life, safety, or physical, mental, or emotional health of
6 the child or the child's sibling.

7 1. As used in this subsection, the term "sibling"
8 means another child who resides with or is cared for by the
9 parent or parents regardless of whether the child is related
10 legally or by consanguinity.

11 2. As used in this subsection, the term "egregious
12 conduct" means abuse, abandonment, neglect, or any other
13 conduct of the parent or parents that is deplorable, flagrant,
14 or outrageous by a normal standard of conduct. Egregious
15 conduct may include an act or omission that occurred only once
16 but was of such intensity, magnitude, or severity as to
17 endanger the life of the child.

18 (g) When the parent or parents have subjected the
19 child to aggravated child abuse as defined in s. 827.03,
20 sexual battery or sexual abuse as defined in s. 39.01, or
21 chronic abuse.

22 (h) When the parent or parents have committed murder
23 or voluntary manslaughter of another child of the parent, or a
24 felony assault that results in serious bodily injury to the
25 child or another child of the parent, or aided or abetted,
26 attempted, conspired, or solicited to commit such a murder or
27 voluntary manslaughter or felony assault.

28 (i) When the parental rights of the parent to a
29 sibling have been terminated involuntarily.

30 Section 8. Subsections (2) and (8) of section 39.811,
31 Florida Statutes, 1998 Supplement, are amended to read:

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1 39.811 Powers of disposition; order of disposition.--

2 (2) If the child is in out-of-home care custody of the
3 department and the court finds that the grounds for
4 termination of parental rights have been established by clear
5 and convincing evidence, the court shall, by order, place the
6 child in the custody of the department for the purpose of
7 adoption ~~or place the child in the custody of a licensed~~
8 ~~child-placing agency for the purpose of adoption.~~

9 (8) If the court terminates parental rights, it shall,
10 in its order of disposition, provide for a hearing, to be
11 scheduled no later than 30 days after the date of disposition,
12 in which the department ~~or the licensed child-placing agency~~
13 shall provide to the court a plan for permanency for the
14 child. Reasonable efforts must be made to place the child in a
15 timely manner in accordance with the permanency plan and to
16 complete whatever steps are necessary to finalize the
17 permanent placement of the child. Thereafter, until the
18 adoption of the child is finalized or the child reaches the
19 age of 18 years, whichever occurs first, the court shall hold
20 hearings at 6-month intervals to review the progress being
21 made toward permanency for the child.

22 Section 9. Section 39.812, Florida Statutes, 1998
23 Supplement, is amended to read:

24 39.812 Postdisposition relief; petition for
25 adoption--

26 (1) ~~If A licensed child-placing agency or the~~
27 department ~~which~~ is given custody of a child for subsequent
28 adoption in accordance with this chapter, the department may
29 place the child with an agency as defined in s. 63.032, with a
30 child-caring agency registered under s. 409.176, or in a
31 family home for prospective subsequent adoption. ~~, and the~~

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1 ~~licensed child-placing agency or~~ The department may thereafter
2 become a party to any proceeding for the legal adoption of the
3 child and appear in any court where the adoption proceeding is
4 pending and consent to the adoption, ~~and~~ and that consent alone
5 shall in all cases be sufficient.

6 (2) In any subsequent adoption proceeding, the parents
7 ~~are shall not be~~ entitled to ~~any~~ notice of the proceeding and
8 ~~are not thereof, nor shall they be~~ entitled to knowledge at
9 any time after the order terminating parental rights is
10 entered of the whereabouts of the child or of the identity or
11 location of any person having the custody of or having adopted
12 the child, except as provided by order of the court pursuant
13 to this chapter or chapter 63. ~~and~~ In any habeas corpus or
14 other proceeding involving the child brought by any parent of
15 the child, an ~~no~~ agent or contract provider of the ~~licensed~~
16 ~~child-placing agency or~~ department may not ~~shall~~ be compelled
17 to divulge that information, but may be compelled to produce
18 the child before a court of competent jurisdiction if the
19 child is still subject to the guardianship of the ~~licensed~~
20 ~~child-placing agency or~~ department.

21 (3) The entry of the custody order to the department
22 ~~does or licensed child-placing agency shall~~ not entitle the
23 ~~licensed child-placing agency or~~ department to guardianship of
24 the estate or property of the child, but the ~~licensed~~
25 ~~child-placing agency or~~ department shall be the guardian of
26 the person of the child.

27 (4) The court shall retain jurisdiction over any child
28 placed in the custody of ~~for whom custody is given to a~~
29 ~~licensed child-placing agency or~~ to the department until the
30 child is adopted. After custody of a child for subsequent
31 adoption has been given to ~~an agency or~~ the department, the

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1 court has jurisdiction for the purpose of reviewing the status
2 of the child and the progress being made toward permanent
3 adoptive placement. As part of this continuing jurisdiction,
4 for good cause shown by the guardian ad litem for the child,
5 the court may review the appropriateness of the adoptive
6 placement of the child.

7 (5) The petition for adoption must be filed in the
8 division of the circuit court which entered the judgment
9 terminating parental rights, unless a motion for change of
10 venue is granted pursuant to s. 47.122. A copy of the consent
11 executed by the department as required under s. 63.062(7) must
12 be attached to the petition. The petition must be accompanied
13 by a form provided by the department which details the social
14 and medical history of the child and each parent and includes
15 the social security number and date of birth for each parent,
16 if such information is available or readily obtainable. The
17 person seeking to adopt the child may not file a petition for
18 adoption until the judgment terminating parental rights
19 becomes final. An adoption proceeding under this subsection is
20 governed by chapter 63, as limited under s. 63.037.

21 Section 10. Section 63.022, Florida Statutes, 1998
22 Supplement, is amended to read:

23 63.022 Legislative intent.--

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

29 (2) The basic safeguards intended to be provided by
30 this chapter act are that:

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

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1 (b) The required persons consent to the adoption or
2 the parent-child relationship is terminated by judgment of the
3 court.

4 (c) The required social studies are completed and the
5 court considers the reports of these studies prior to judgment
6 on adoption petitions.

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

9 (e) A sufficient period of time elapses during which
10 the minor child has lived within the proposed adoptive home
11 under the guidance of the department, a child-caring agency
12 registered under s. 409.176, or a licensed child-placing
13 agency.

14 (f) All expenditures by adoption entities
15 ~~intermediaries~~ placing, and persons independently adopting, a
16 minor are reported to the court and become a permanent record
17 in the file of the adoption proceedings.

18 (g) Social and medical information concerning the
19 minor child and the ~~birth~~ parents is furnished by the ~~birth~~
20 parent when available and filed with the court before a final
21 hearing on a petition to terminate parental rights pending
22 adoption consent to the adoption when a minor is placed by an
23 intermediary.

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

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

29 (j) The records of all proceedings concerning custody
30 and adoption of a minor children are confidential and exempt
31 from ~~the provisions of~~ s. 119.07(1), except as provided in s.

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1 63.162.

2 (k) The ~~birth~~ parent, the prospective adoptive parent,
3 and the minor child receive the same or similar safeguards,
4 guidance, counseling, and supervision in all adoptions ~~an~~
5 ~~intermediary adoption as they receive in an agency or~~
6 ~~department adoption.~~

7 (l) In all matters coming before the court under
8 ~~pursuant to this chapter act~~, the court shall enter such
9 orders as it deems necessary and suitable to promote and
10 protect the best interests of the person to be adopted.

11 (m) In dependency cases initiated by the department,
12 where termination of parental rights occurs, and siblings are
13 separated despite diligent efforts of the department,
14 continuing postadoption communication or contact among the
15 siblings may be ordered by the court if found to be in the
16 best interests of the children.

17 Section 11. Section 63.032, Florida Statutes, is
18 amended to read:

19 63.032 Definitions.--As used in this chapter act,
20 ~~unless the context otherwise requires~~, the term:

21 ~~(1)(14)~~ "Abandoned" means a situation in which the
22 parent or person having legal custody ~~legal custodian~~ of a
23 child, while being able, makes no provision for the child's
24 support and makes no effort to communicate with the child,
25 which situation is sufficient to evince a willful rejection of
26 parental obligations. If, in the opinion of the court, the
27 efforts of such parent or person having legal custody of the
28 child ~~legal custodian~~ to support and communicate with the
29 child are only marginal efforts that do not evince a settled
30 purpose to assume all parental duties, the court may declare
31 the child to be abandoned. In making this decision, the court

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1 may consider the conduct of a father towards the child's
2 mother during her pregnancy.

3 (2)~~(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 (3) "Adoption entity" means the department, an agency,
10 a child-caring agency registered under s. 409.176, or an
11 intermediary.

12 (4)~~(5)~~ "Adult" means a person who is not a minor.

13 (5)~~(7)~~ "Agency" means any child-placing agency
14 licensed by the department pursuant to s. 63.202 to place
15 minors for adoption.

16 (6)~~(2)~~ "Child" means a son or daughter, whether by
17 birth or adoption.

18 (7)~~(3)~~ "Court" means any circuit court of this state
19 and, when the context requires, the court of any state that is
20 empowered to grant petitions for adoption.

21 (8)~~(1)~~ "Department" means the Department of Children
22 and Family Services.

23 (9)~~(8)~~ "Intermediary" means an attorney ~~or physician~~
24 who is licensed or authorized to practice in this state and
25 who is placing or intends to place a child for adoption or,
26 for the purpose of adoptive placements of children from out of
27 state with citizens of this state, a child-placing agency
28 licensed in another state that is qualified by the department.

29 (10) "Legal custody" has the meaning ascribed in s.
30 39.01.

31 (11)~~(4)~~ "Minor" means a person under the age of 18

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1 years.

2 (12) "Parent" has the same meaning ascribed in s.
3 39.01.

4 (13)~~(6)~~ "Person" includes a natural person,
5 corporation, government or governmental subdivision or agency,
6 business trust, estate, trust, partnership, or association,
7 and any other legal entity.

8 (14) "Relative" has the same meaning ascribed in s.
9 39.01.

10 (15)~~(9)~~ "To place" or "placement" means the process of
11 a person giving a child up for adoption and the prospective
12 parents receiving and adopting the child, and includes all
13 actions by any person or adoption entity ~~agency~~ participating
14 in the process.

15 (16)~~(13)~~ "Primarily lives and works outside Florida"
16 means anyone who does not meet the definition of "primary
17 residence and place of employment in Florida."

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

26 (18)~~(11)~~ "Suitability of the intended placement"
27 includes the fitness of the intended placement, with primary
28 consideration being given to the welfare of the child; the
29 fitness and capabilities of the adoptive parent or parents to
30 function as parent or parents for a particular child; any
31 familial relationship between the child and the prospective

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1 placement; and the compatibility of the child with the home in
2 which the child is intended to be placed.

3 Section 12. Section 63.037, Florida Statutes, is
4 created to read:

5 63.037 Proceedings applicable to cases resulting from
6 a termination of parental rights under chapter 39.--A case in
7 which a minor becomes available for adoption after the
8 parental rights of each parent have been terminated by a
9 judgment entered pursuant to chapter 39 shall be governed by
10 s. 39.812 and this chapter. Adoption proceedings initiated
11 under chapter 39 are exempt from the following provisions of
12 this chapter: disclosure requirements for the adoption entity
13 provided in s. 63.085; general provisions governing
14 termination of parental rights pending adoption provided in s.
15 63.087; notice and service provisions governing termination of
16 parental rights pending adoption provided in s. 63.088; and
17 procedures for terminating parental rights pending adoption
18 provided in s. 63.089.

19 Section 13. 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 parents and prospective adoptive parents by promoting
28 certainty, finality, and permanency for such persons. The
29 adoption entity must:

30 (a) Provide written initial disclosure to the
31 prospective adoptive parent at the time and in the manner

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1 required under s. 63.085.

2 (b) Provide written initial and postbirth disclosure
3 to the parent at the time and in the manner required under s.
4 63.085.

5 (c) When a written consent for adoption is obtained,
6 obtain the consent at the time and in the manner required
7 under s. 63.082.

8 (d) When a written consent or affidavit of
9 nonpaternity for adoption is obtained, obtain a consent to
10 adoption or affidavit of nonpaternity that contains the
11 language required under s. 63.062 or s. 63.082.

12 (e) Include in the petition to terminate parental
13 rights pending adoption all information required under s.
14 63.087(6)(e) and (f).

15 (f) Obtain and file the affidavit of inquiry pursuant
16 to s. 63.088(3), if the required inquiry is not conducted
17 orally in the presence of the court.

18 (g) When the identity of a person whose consent to
19 adoption is necessary under this chapter is known but the
20 location of such a person is unknown, conduct the diligent
21 search and file the affidavit required under s. 63.088(4).

22 (h) Serve the petition and notice of hearing to
23 terminate parental rights pending adoption at the time and in
24 the manner required by s. 63.088.

25 (i) Obtain the written waiver of venue required under
26 s. 63.062 in cases involving a child younger than 6 months of
27 age in which venue for the termination of parental rights will
28 be located in a county other than the county where the parent
29 whose rights are to be terminated resides.

30 (2) An adoption entity that materially fails to meet a
31 duty specified in subsection (1) may be liable to the

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

4 Section 14. Subsection (1) of section 63.0425, Florida
5 Statutes, is amended to read:

6 63.0425 Grandparent's right to adopt.--

7 (1) When a child who has lived with a grandparent for
8 at least 6 months is placed for adoption, the adoption entity
9 ~~agency or intermediary~~ handling the adoption shall notify that
10 grandparent of the impending adoption before the petition for
11 adoption is filed. If the grandparent petitions the court to
12 adopt the child, the court shall give first priority for
13 adoption to that grandparent.

14 Section 15. Section 63.052, Florida Statutes, 1998
15 Supplement, is amended to read:

16 63.052 Guardians designated; proof of commitment.--

17 (1) For minors who have been placed for adoption with
18 and permanently committed to an agency as defined in s. 63.032
19 or a child-caring agency registered under s. 409.176, such the
20 agency shall be the guardian of the person of the minor child;
21 for those who have been placed for adoption with and
22 permanently committed to the department, the department shall
23 be the guardian of the person of the minor child.

24 (2) For minors who have been voluntarily surrendered
25 to an intermediary through an execution of consent to
26 adoption, the intermediary shall be responsible for the minor
27 ~~child~~ until the time a court orders preliminary approval of
28 placement of the minor child in the prospective adoptive home,
29 at which time the prospective adoptive parents become
30 guardians pending finalization of adoption. Until a court has
31 terminated parental rights pending adoption and has ordered

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1 preliminary approval of placement of the minor in the adoptive
2 home, the minor must be placed in the care of a relative as
3 defined in s. 39.01, in foster care, or in the care of a
4 prospective adoptive home. No minor shall be placed in a
5 prospective adoptive home until that home has received a
6 favorable preliminary home study by a licensed child-placing
7 agency, a licensed professional, or an agency, as provided in
8 s. 63.092, within 1 year before such placement in the
9 prospective home. Temporary placement in the prospective home
10 with the prospective adoptive parents does not give rise to a
11 presumption that the parental rights of the parents will
12 subsequently be terminated.

13 (2) For minors who have been placed for adoption with
14 or voluntarily surrendered to an agency, but have not been
15 permanently committed to the agency, the agency shall have the
16 responsibility and authority to provide for the needs and
17 welfare for such minors. For those minors placed for adoption
18 with or voluntarily surrendered to the department, but not
19 permanently committed to the department, the department shall
20 have the responsibility and authority to provide for the needs
21 and welfare for such minors. The adoption entity may
22 ~~department, an intermediary, or a licensed child-placing~~
23 ~~agency has the authority to~~ authorize all appropriate medical
24 care for a minor ~~the children~~ who has ~~have~~ been placed for
25 adoption with or voluntarily surrendered to the adoption
26 entity ~~them~~. The provisions of s. 627.6578 shall remain in
27 effect notwithstanding the guardianship provisions in this
28 section.

29 (3) If a minor is surrendered to an intermediary for
30 subsequent adoption and a suitable prospective adoptive home
31 is not available pursuant to s. 63.092 at the time the minor

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1 is surrendered to the intermediary or, if the minor is a
2 newborn admitted to a licensed hospital or birth center, at
3 the time the minor is discharged from the hospital or birth
4 center, the minor must be placed in licensed foster care, the
5 intermediary shall be responsible for the child until such a
6 suitable prospective adoptive home is available.

7 (4) If a minor child is voluntarily surrendered to an
8 adoption entity intermediary for subsequent adoption and the
9 adoption does not become final within 180 days, the adoption
10 entity intermediary must report to the court on the status of
11 the minor child and the court may at that time proceed under
12 s. 39.701 or take action reasonably necessary to protect the
13 best interest of the minor child.

14 (5) The recital in the written consent given by the
15 department that the minor child sought to be adopted has been
16 permanently committed to the department shall be prima facie
17 proof of such commitment. The recital in the written consent
18 given by a licensed child-placing agency or the declaration in
19 an answer or recommendation filed by a licensed child-placing
20 agency that the minor child has been permanently committed and
21 the child-placing agency is duly licensed by the department
22 shall be prima facie proof of such commitment and of such
23 license.

24 (6) Unless otherwise authorized by law, the department
25 is not responsible for expenses incurred by other adoption
26 entities licensed child-placing agencies or intermediaries
27 participating in placement of a minor child for the purposes
28 of adoption.

29 (7) The court retains jurisdiction of a minor who has
30 been placed for adoption until the adoption is final. After a
31 minor is placed with an adoption entity or prospective

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1 adoptive parent, the court may review the status of the minor
 2 and the progress toward permanent adoptive placement. As part
 3 of this continuing jurisdiction, for good cause shown by a
 4 person whose consent to an adoption is required under s.
 5 63.062, the adoption entity, the parents, persons having legal
 6 custody of the minor, persons with custodial or visitation
 7 rights to the minor, persons entitled to notice pursuant to
 8 the Uniform Child Custody Jurisdiction Act or the Indian Child
 9 Welfare Act, or upon the court's own motion, the court may
 10 review the appropriateness of the adoptive placement of the
 11 minor.

12 Section 16. Section 63.062, Florida Statutes, is
 13 amended to read:

14 63.062 Persons required to consent to adoption;
 15 affidavit of nonpaternity; waiver of venue.--

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

22 (a) The mother of the minor.

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

24 1. The minor was conceived or born while the father
 25 was married to the mother; -

26 2. The minor is his child by adoption; or-

27 3. The minor has been established by court proceeding
 28 to be his child.

29 (c) If there is no father as set forth in paragraph
 30 (b), any man established to be the father of the child by
 31 scientific tests that are generally acceptable within the

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1 scientific community to show a probability of paternity.

2 (d) If there is no father as set forth in paragraph
3 (b) or paragraph (c), any man who the mother has reason to
4 believe may be the father of the minor and who:

5 1.4. He Has acknowledged in writing, signed in the
6 presence of a competent witness, that he is the father of the
7 minor and has filed such acknowledgment with the Office of
8 Vital Statistics of the Department of Health;

9 2.5. He Has provided, or has attempted to provide, the
10 child or the mother during her pregnancy with support in a
11 repetitive, customary manner; or

12 3. Has been identified by the birth mother as a person
13 she has reason to believe may be the father of the minor in an
14 action to terminate parental rights pending adoption pursuant
15 to this chapter.

16 (e) Any person who is a party in any pending
17 proceeding in which paternity, custody, or termination of
18 parental rights regarding the minor is at issue.

19 (f)(c) The minor, if more than 12 years of age, unless
20 the court in the best interest of the minor dispenses with the
21 minor's consent.

22 (2) Any person whose consent is required under
23 paragraph (1)(c) or paragraph (1)(d) may execute an affidavit
24 of nonpaternity in lieu of a consent under this section and by
25 doing so waives notice to all court proceedings after the date
26 of execution. An affidavit of nonpaternity must be executed as
27 provided in s. 63.082. The person executing the affidavit must
28 receive disclosure under s. 63.085 prior to signing the
29 affidavit.

30 (3) A person who signs a consent to adoption or an
31 affidavit of nonpaternity must be given reasonable notice of

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

7 (4) An affidavit of nonpaternity must be in
8 substantially the following form:

9
10 AFFIDAVIT OF NONPATERNITY

11
12 1. I have personal knowledge of the facts
13 stated in this affidavit.

14 2. I have been told that has a
15 child. I shall not establish or claim paternity
16 for this child, whose name is ... and whose
17 date of birth is

18 3. The child referenced in this affidavit
19 was not conceived or born while the birth
20 mother was married to me. I AM NOT MARRIED TO
21 THE BIRTH MOTHER, nor do I intend to marry the
22 birth mother.

23 4. With respect to the child referenced
24 in this affidavit, I have not provided the
25 birth mother with child support or prebirth
26 support; I have not provided her with prenatal
27 care or assisted her with medical expenses; I
28 have not provided the birth mother or her child
29 or unborn child with support of any kind, nor
30 do I intend to do so.

31 5. I have no interest in assuming the

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1 responsibilities of parenthood for this child.
2 I will not acknowledge in writing that I am the
3 father of this child nor institute court
4 proceedings to establish the child as mine.

5 6. I do not object to any decision or
6 arrangements makes regarding this child,
7 including adoption.

8 7. I have been told of my right to choose
9 a person who does not have an employment,
10 professional, or personal relationship with the
11 adoption entity or the prospective adoptive
12 parents to be present when this affidavit is
13 executed and to sign it as a witness.

14
15 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
16 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
17 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

18
19 ~~(5)(2)~~ The court may require that consent be executed
20 by:

21 (a) Any person lawfully entitled to custody of the
22 minor; or

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

26 ~~(6)(3)~~ The petitioner must make good faith and
27 diligent efforts as provided under s. 63.088 to notify, and
28 obtain written consent from, the persons required to consent
29 to adoption under this section ~~within 60 days after filing the~~
30 ~~petition. These efforts may include conducting interviews and~~
31 ~~record searches to locate those persons, including verifying~~

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1 ~~information related to location of residence, employment,~~
 2 ~~service in the Armed Forces, vehicle registration in this~~
 3 ~~state, and corrections records.~~

4 ~~(7)(4)~~ If parental rights to the minor have previously
 5 been terminated, a licensed child-placing agency, a
 6 child-caring agency registered under s. 409.176, or the
 7 department with which the minor child has been placed for
 8 subsequent adoption may provide consent to the adoption. In
 9 such case, no other consent is required.

10 ~~(8)(5)~~ A petition to adopt an adult may be granted if:

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

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

17 (9)(a) In cases involving a child younger than 6
 18 months of age in which venue for the termination of parental
 19 rights may be located in a county other than where the parent
 20 whose rights are to be terminated resides, the adoption entity
 21 must obtain, from any party executing an affidavit of
 22 nonpaternity or consent, a waiver of venue, which must be
 23 filed with the petition and must be in substantially the
 24 following form:

25
 26 WAIVER OF VENUE

27
 28
 29 I understand that I have the right to require
 30 that the Petition to terminate my parental
 31 rights be filed in the county where I reside. I

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1 waive such right so that the Petition to
 2 Terminate Parental Rights may be filed by
 3 ...(adoption entity)... in ...(county name)...
 4 county, Florida.

5
 6 I understand that, after signing this waiver, I
 7 may object to the county where the proceedings
 8 to terminate my parental rights will be held by
 9 appearing at the hearing or by filing a written
 10 objection, on the attached form, with the Clerk
 11 of the Court who is located at ...(address of
 12 court).... If I later object to this transfer
 13 of venue, the case will be transferred to a
 14 county in Florida in which I reside. If I have
 15 no such residence, the case will be transferred
 16 to a county where another parent resides or
 17 where at least one parent resided at the time
 18 of signing a consent or affidavit of
 19 nonpaternity.

20
 21 (b)1. The waiver of venue must be a separate document
 22 containing no consents, disclosures, or other information
 23 unrelated to venue.

24 2. Adoption entities must attach to the waiver of
 25 venue a form that the parent whose rights are to be terminated
 26 may use to request a transfer of venue for the proceeding.
 27 This form must contain the intended caption of the action for
 28 termination of parental rights and information identifying the
 29 child which will be sufficient for the clerk to properly file
 30 the form upon receipt.

31 3. This form must include a notice that if an adoption

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1 entity knows that a parent whose rights will be terminated
2 intends to object to the termination but intentionally files
3 the petition for termination of parental rights in a county
4 which is not consistent with the required venue under such
5 circumstances, the adoption entity shall be responsible for
6 the attorney's fees of the parent contesting the transfer of
7 venue.

8 Section 17. Section 63.082, Florida Statutes, is
9 amended to read:

10 63.082 Execution of consent to adoption or affidavit
11 of nonpaternity; family social and medical history; withdrawal
12 of consent.--

13 (1) Consent to an adoption or an affidavit of
14 nonpaternity shall be executed as follows:

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

18 (b) If by an agency, by affidavit from its authorized
19 representative.

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

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

24 (2) A consent that does not name or otherwise identify
25 the adopting parent is valid if the consent contains a
26 statement by the person consenting that the consent was
27 voluntarily executed and that identification of the adopting
28 parent is not required for granting the consent.

29 (3)(a) The department must provide a consent form and
30 a family social and medical history form to an adoption entity
31 that intermediary who intends to place a child for adoption.

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1 ~~The~~ Forms containing, at a minimum, the same information as
2 the forms promulgated by the department ~~completed by the birth~~
3 ~~parents~~ must be attached to the petition to terminate parental
4 rights pending adoption and must contain such biological and
5 sociological information, or such information as to the family
6 medical history, regarding the minor child and the ~~birth~~
7 parents, as is required by the department. The information
8 must be incorporated into the final home investigation report
9 specified in s. 63.125. Each parent must ~~The court may also~~
10 ~~require that the birth mother~~ be interviewed by a
11 representative of the department, a licensed child-placing
12 agency, or a licensed professional, pursuant to s. 63.092,
13 before the consent is executed, unless the parent cannot be
14 located or identified. A summary of each interview, or a
15 statement that the parent is unlocated or unidentified, must
16 be filed with the petition to terminate parental rights
17 pending adoption and included in the final home investigation
18 report filed under s. 63.125. The interview may be excused by
19 the court for good cause.

20 (b) Consent executed by ~~the department, by a licensed~~
21 ~~child-placing agency, or by an appropriate order or~~
22 certificate of the court if executed under s. 63.062(5)(b)
23 must be attached to the petition to terminate parental rights
24 pending adoption and must be accompanied by a family medical
25 ~~history that includes such information concerning the medical~~
26 ~~history of the child and the birth parents as is available or~~
27 ~~readily obtainable.~~

28 (c) If any required consent or social and medical
29 history is unavailable because the person whose consent is
30 required cannot be located or identified, the petition to
31 terminate parental rights pending adoption must be accompanied

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1 by the affidavit of diligent search required under s. 63.088.

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

5 (b) A consent to the adoption of a minor who is to be
6 placed for adoption with identified prospective adoptive
7 parents under s. 63.052, upon the minor's release from a
8 licensed hospital or birth center following birth, shall not
9 be executed sooner than 48 hours after the minor's birth or
10 the day the birth mother has been notified in writing, either
11 on her patient chart or in release paperwork, that she is fit
12 to be released from a licensed hospital or birth center,
13 whichever is earlier. A consent executed under this paragraph
14 is valid upon execution and may be withdrawn only if the court
15 finds that it was obtained by fraud or under duress.

16 (c) When the minor to be adopted is not placed
17 pursuant to s. 63.052 upon the minor's release from a licensed
18 hospital or birth center following birth, the consent to
19 adoption may be executed at any time after the birth of the
20 minor. While such consent is valid upon execution, it is
21 subject to the 3-day revocation period under subsection (7) or
22 may be revoked at any time prior to the placement of the minor
23 with the prospective adoptive parents, whichever is later.

24 (d) The consent to adoption or the affidavit of
25 nonpaternity must be signed child, in the presence of two
26 witnesses, and be acknowledged before a notary public who is
27 not signing as one of the witnesses. The notary public must
28 legibly note on the consent or the affidavit the date and time
29 of execution. The witnesses' names must be typed or printed
30 underneath their signatures. The witnesses', and their home or
31 business addresses and social security numbers, driver's

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1 license numbers, or state identification card numbers must be
2 included. The absence of a social security number, driver's
3 license number, or state identification card number shall not
4 ~~be deemed to~~ invalidate the consent. The person who signs the
5 consent or the affidavit has the right to have at least one of
6 the witnesses be an individual who does not have an
7 employment, professional, or personal relationship with the
8 adoption entity or the prospective adoptive parents. The
9 adoption entity must give reasonable notice to the person
10 signing the consent or affidavit of the right to select a
11 witness of his or her own choosing. The person who signs the
12 consent or affidavit must acknowledge in writing on the
13 consent or affidavit that such notice was given and indicate
14 the witness, if any, who was selected by the person signing
15 the consent or affidavit. The adoption entity must include its
16 name, address, and telephone number on the consent to adoption
17 or affidavit of nonpaternity.

18 (e) A consent to adoption must contain, in at least
19 16-point boldfaced type, an acknowledgment of the parent's
20 rights in substantially the following form:

21
22 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
23 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
24 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
25 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
26 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
27 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
28 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
29 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
30 OR WITNESSES YOU SELECTED, IF ANY.
31

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1 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
2 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
3 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:
4
5 1. CONSULT WITH AN ATTORNEY;
6 2. HOLD, CARE FOR, AND FEED THE CHILD;
7 3. PLACE THE CHILD IN FOSTER CARE OR WITH
8 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
9 WILLING TO CARE FOR THE CHILD;
10 4. TAKE THE CHILD HOME UNLESS OTHERWISE
11 LEGALLY PROHIBITED; AND
12 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
13 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
14 THROUGH WITH THE ADOPTION.
15
16 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
17 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID
18 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY
19 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A
20 CHILD WHO IS TO BE PLACED FOR ADOPTION WITH
21 IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON
22 THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
23 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD
24 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT
25 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE
26 TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS
27 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT
28 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO
29 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
30 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY
31 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE

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1 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
2 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
3 IT WAS OBTAINED BY FRAUD OR UNDER DURESS.
4
5 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO
6 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S
7 RELEASE FROM A LICENSED HOSPITAL OR BIRTH
8 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE
9 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
10 CHILD. WHILE THE CONSENT IS VALID AND BINDING
11 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.
12 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
13 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
14 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR
15 TO THE PLACEMENT OF THE CHILD WITH THE
16 PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT
17 WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
18 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
19 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
20 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
21 LATER.
22
23 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
24 PERIOD, YOU MUST:
25 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
26 A LETTER, THAT YOU ARE WITHDRAWING YOUR
27 CONSENT.
28 2. MAIL THE LETTER AT A UNITED STATES
29 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
30 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
31 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE

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1 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
2 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
3 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
4 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.
5 3. SEND THE LETTER BY CERTIFIED UNITED
6 STATES MAIL WITH RETURN RECEIPT REQUESTED.
7 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
8 THE LETTER.
9 5. KEEP THE CERTIFIED MAIL RECEIPT AS
10 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
11 MANNER.

12
13 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
14 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
15 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,
16 IN WRITING BY CERTIFIED UNITED STATES MAIL,
17 RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY
18 YOU SHOULD NOTIFY IS: ...(name of adoption
19 entity)..., ...(address of adoption entity)...,
20 ...(phone number of adoption entity)....

21
22 ONCE THE REVOCATION PERIOD IS OVER, OR THE
23 CHILD HAS BEEN PLACED WITH THE PROSPECTIVE
24 ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU
25 MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN
26 PROVE IN COURT THAT CONSENT WAS OBTAINED BY
27 FRAUD OR UNDER DURESS.

28
29 (5) Before any consent to adoption or affidavit of
30 nonpaternity is executed by a parent, but after the birth of
31 the minor, all requirements of disclosure under s. 63.085 must

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1 be met.

2 (6) A copy of each consent signed in an action for
3 termination of parental rights pending adoption must be
4 provided to the person who executed the consent to adoption.
5 The copy must be hand delivered, with a written acknowledgment
6 of receipt signed by the person whose consent is required, or
7 mailed by first class United States mail to the address of
8 record in the court file. If a copy of a consent cannot be
9 provided as required in this subsection, the adoption entity
10 must execute an affidavit stating why the copy of the consent
11 is undeliverable. The original consent and acknowledgment of
12 receipt, an acknowledgment of mailing by the adoption entity,
13 or an affidavit stating why the copy of the consent is
14 undeliverable must be filed with the petition for termination
15 of parental rights pending adoption.

16 (7)(5)(a) A consent that is being withdrawn under
17 paragraph (4)(c) may be withdrawn at any time prior to the
18 minor's placement with the prospective adoptive parents or by
19 notifying the adoption entity in writing by certified United
20 States mail, return receipt requested, not later than 3
21 business days after execution of the consent or 1 business day
22 after the date of the birth mother's discharge from a licensed
23 hospital or birth center, whichever occurs later. As used in
24 this subsection, the term "business day" means any day on
25 which the United States Postal Service accepts certified mail
26 for delivery.

27 (b) Upon receiving written notice from a person of
28 that person's desire to withdraw consent to adoption, the
29 adoption entity must contact the prospective adoptive parent
30 to arrange a time certain for the adoption entity to regain
31 physical custody of the minor, unless, upon a motion for

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1 emergency hearing by the adoption entity, the court determines
2 in written findings that placement of the minor with the
3 person withdrawing consent may endanger the minor.

4 (c) If the court finds that such placement may
5 endanger the minor, the court must enter an order regarding
6 continued placement of the minor. The order shall include, but
7 not be limited to, whether temporary placement in foster care
8 is appropriate, whether an investigation by the department is
9 recommended, and whether a relative within the third degree is
10 available for the temporary placement.

11 (d) If the person withdrawing consent claims to be the
12 father of the minor but has not been established to be the
13 father by marriage, court order, or scientific testing, the
14 court may order scientific paternity testing and reserve
15 ruling on removal of the minor until the results of such
16 testing have been filed with the court.

17 (e) The adoption entity must return the minor within 3
18 days after notification of the withdrawal of consent or after
19 the court determines that withdrawal is valid and binding upon
20 consideration of an emergency motion, as filed pursuant to
21 subsection (b), to the physical custody of the person
22 withdrawing consent.

23 (f) Following the revocation period for withdrawal of
24 consent described in paragraph (a), or the placement of the
25 child with the prospective adoptive parents, whichever occurs
26 later, consent may be withdrawn only when the court finds that
27 the consent was obtained by fraud or under duress.

28 (g) An affidavit of nonpaternity may be withdrawn only
29 if the court finds that the affidavit was obtained by fraud or
30 under duress.

31 Section 18. Section 63.085, Florida Statutes, is

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1 amended to read:

2 (Substantial rewording of section. See

3 s. 63.085, F.S., for present text.)

4 63.085 Disclosure by adoption entity.--

5 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE

6 ADOPTIVE PARENTS.--Not later than 7 days after a person

7 seeking to adopt a minor or a person seeking to place a minor

8 for adoption contacts an adoption entity in person or provides

9 the adoption entity with a mailing address, the entity must

10 provide a written disclosure statement to that person if the

11 entity agrees or continues to work with such person. If an

12 adoption entity is assisting in the effort to terminate the

13 parental rights of a parent who did not initiate the contact

14 with the adoption entity, the written disclosure must be

15 provided within 7 days after that parent is identified and

16 located. The written disclosure statement must be in

17 substantially the following form:

18

19

ADOPTION DISCLOSURE

20

21 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE

22 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A

23 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,

24 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING

25 ADOPTION UNDER FLORIDA LAW:

26

27 1. Under section 63.102, Florida

28 Statutes, the existence of a placement or

29 adoption contract signed by the parent or

30 prospective adoptive parent, prior approval of

31 that contract by the court, or payment of any

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1 expenses permitted under Florida law does not
2 obligate anyone to sign a consent or ultimately
3 place a minor for adoption.

4 2. Under sections 63.092 and 63.125,
5 Florida Statutes, a favorable preliminary home
6 study, before the minor may be placed in that
7 home, and a final home investigation, before
8 the adoption becomes final, must be completed.

9 3. Under section 63.082, Florida
10 Statutes, a consent to adoption or affidavit of
11 nonpaternity may not be signed until after the
12 birth of the minor.

13 4. Under section 63.082, Florida
14 Statutes, if the minor is to be placed for
15 adoption with identified prospective adoptive
16 parents upon release from a licensed hospital
17 or birth center following birth, the consent to
18 adoption may not be signed until 48 hours after
19 birth or until the day the birth mother has
20 been notified in writing, either on her patient
21 chart or in release papers, that she is fit to
22 be released from the licensed hospital or birth
23 center, whichever is sooner. The consent to
24 adoption or affidavit of nonpaternity is valid
25 and binding upon execution unless the court
26 finds it was obtained by fraud or under duress.

27 5. Under section 63.082, Florida
28 Statutes, if the minor is not placed for
29 adoption with the prospective adoptive parent
30 upon release from the hospital or birth center
31 following birth, a 3-day revocation period

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1 applies during which consent may be withdrawn
2 for any reason by notifying the adoption entity
3 in writing. In order to withdraw consent, the
4 written withdrawal of consent must be mailed at
5 a United States Post Office no later than 3
6 business days after execution of the consent or
7 1 business day after the date of the birth
8 mother's discharge from a licensed hospital or
9 birth center, whichever occurs later. For
10 purposes of mailing the withdrawal of consent,
11 the term "business day" means any day on which
12 the United States Postal Service accepts
13 certified mail for delivery. The letter must be
14 sent by certified United States mail, return
15 receipt requested. Postal costs must be paid at
16 the time of mailing and the receipt should be
17 retained as proof that consent was withdrawn in
18 a timely manner.

19 6. Under section 63.082, Florida
20 Statutes, and notwithstanding the revocation
21 period, the consent may be withdrawn at any
22 time prior to the placement of the child with
23 the prospective adoptive parent, by notifying
24 the adoption entity in writing by certified
25 United States mail, return receipt requested.

26 7. Under section 63.082, Florida
27 Statutes, if an adoption entity timely receives
28 written notice from a person of that person's
29 desire to withdraw consent, the adoption entity
30 must contact the prospective adoptive parent to
31 arrange a time certain to regain physical

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1 custody of the child. Absent a court order for
2 continued placement of the child entered under
3 section 63.082, Florida Statutes, the adoption
4 entity must return the minor within 3 days
5 after notification of the withdrawal of consent
6 to the physical custody of the person
7 withdrawing consent. After the revocation
8 period for withdrawal of consent ends, or after
9 the placement of the child with prospective
10 adoptive parent, whichever occurs later, the
11 consent may be withdrawn only if the court
12 finds that the consent was obtained by fraud or
13 under duress.

14 8. Under section 63.082, Florida
15 Statutes, an affidavit of nonpaternity, once
16 executed, may be withdrawn only if the court
17 finds that it was obtained by fraud or under
18 duress.

19 9. Under section 63.082, Florida
20 Statutes, a person who signs a consent to
21 adoption or an affidavit of nonpaternity must
22 be given reasonable notice of his or her right
23 to select a person who does not have an
24 employment, professional, or personal
25 relationship with the adoption entity or the
26 prospective adoptive parents to be present when
27 the consent or affidavit is executed and to
28 sign the consent or affidavit as a witness.

29 10. Under section 63.088, Florida
30 Statutes, specific and extensive efforts are
31 required by law to attempt to obtain the

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1 consents required under section 63.062, Florida
2 Statutes. If these efforts are unsuccessful,
3 the court may not enter a judgment terminating
4 parental rights pending adoption until certain
5 requirements have been met.

6 11. Under Florida law, an intermediary
7 may represent the legal interests of only the
8 prospective adoptive parents. Each person whose
9 consent to an adoption is required under
10 section 63.062, Florida Statutes, is entitled
11 to seek independent legal advice and
12 representation before signing any document or
13 surrendering parental rights.

14 12. Under section 63.182, Florida
15 Statutes, an action or proceeding of any kind
16 to vacate, set aside, or otherwise nullify a
17 judgment of adoption or an underlying judgment
18 terminating parental rights pending adoption,
19 on any ground, including duress but excluding
20 fraud, must be filed within 1 year after entry
21 of the judgment terminating parental rights
22 pending adoption. Such an action or proceeding
23 for fraud must be filed within 2 years after
24 entry of the judgment terminating parental
25 rights.

26 13. Under section 63.089, Florida
27 Statutes, a judgment terminating parental
28 rights pending adoption is voidable and any
29 later judgment of adoption of that minor is
30 voidable if, upon the motion of a parent, the
31 court finds that any person knowingly gave

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1 false information that prevented the parent
2 from timely making known his or her desire to
3 assume parental responsibilities toward the
4 minor or to exercise his or her parental
5 rights. The motion must be filed with the court
6 that originally entered the judgment. The
7 motion must be filed within a reasonable time,
8 but not later than 2 years after the date the
9 judgment to which the motion is directed was
10 entered.

11 14. Under section 63.165, Florida
12 Statutes, the State of Florida maintains a
13 registry of adoption information. Information
14 about the registry is available from the
15 Department of Children and Family Services.

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

29 16. Each parent and prospective adoptive
30 parent is entitled to independent legal advice
31 and representation. Attorney information may be

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1 obtained from the yellow pages, The Florida
2 Bar's lawyer referral service, and local legal
3 aid offices and bar associations.

4 17. Counseling services may be helpful
5 while making a parenting decision. Consult the
6 yellow pages of the telephone directory.

7 18. Medical and social services support
8 is available if the parent wishes to retain
9 parental rights and responsibilities. Consult
10 the Department of Children and Family Services.

11 19. Under section 63.039, Florida
12 Statutes, an adoption entity has certain legal
13 responsibilities and may be liable for damages
14 to persons whose consent to an adoption is
15 required or to prospective adoptive parents for
16 failing to materially meet those
17 responsibilities. Damages may also be recovered
18 from an adoption entity if a consent to
19 adoption or affidavit of nonpaternity is
20 obtained by fraud or under duress attributable
21 to an adoption entity.

22 20. Under section 63.097, Florida
23 Statutes, reasonable living expenses of the
24 birth mother may be paid by the prospective
25 adoptive parents and the adoption entity only
26 if the birth mother is unable to pay due to
27 unemployment, underemployment, or disability.
28 The law also allows payment of reasonable and
29 necessary medical expenses, expenses necessary
30 to comply with the requirements of chapter 63,
31 Florida Statutes, court filing expenses, and

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1 costs associated with advertising. Certain
2 documented legal, counseling, and other
3 professional fees may be paid. Prior approval
4 of the court is not required until the
5 cumulative total of amounts permitted exceeds
6 \$2,500 in legal or other fees, \$500 in court
7 costs, \$3,000 in expenses or \$1,500 in
8 cumulative expenses incurred prior to the date
9 the prospective adoptive parent retains the
10 adoption entity. The following fees, costs, and
11 expenses are prohibited:

- 12 a. Any fee or expense that constitutes
13 payment for locating a minor for adoption.
- 14 b. Any lump-sum payment to the entity
15 which is nonrefundable directly to the payor or
16 which is not itemized on the affidavit.
- 17 c. Any fee on the affidavit which does
18 not specify the service that was provided and
19 for which the fee is being charged, such as a
20 fee for facilitation or acquisition.

21
22 The court may reduce amounts charged or refund
23 amounts that have been paid if it finds that
24 these amounts were more than what was
25 reasonable or allowed under the law.

26 21. Under section 63.132, Florida
27 Statutes, the adoption entity and the
28 prospective adoptive parents must sign and file
29 with the court a written statement under oath
30 listing all the fees, expenses, and costs made,
31 or agreed to be made, by or on behalf of the

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1 prospective adoptive parents and any adoption
2 entity in connection with the adoption. The
3 affidavit must state whether any of the
4 expenses were eligible to be paid for by any
5 other source.

6 22. Under section 63.132, Florida
7 Statutes, the court order approving the money
8 spent on the adoption must be separate from the
9 judgment making the adoption final. The court
10 may approve only certain costs and expenses
11 allowed under s. 63.097. The court may approve
12 only fees that are allowed under law and that
13 it finds to be "reasonable." A good idea of
14 what is and is not allowed to be paid for in an
15 adoption can be determined by reading sections
16 63.097 and 63.132, Florida Statutes.

17
18 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
19 must obtain a written statement acknowledging receipt of the
20 disclosure required under subsection (1) and signed by the
21 persons receiving the disclosure or, if it is not possible to
22 obtain such an acknowledgment, the adoption entity must
23 execute an affidavit stating why an acknowledgment could not
24 be obtained. If the disclosure was delivered by certified
25 United States mail, return receipt requested, a return receipt
26 signed by the person from whom acknowledgment is required is
27 sufficient to meet the requirements of this subsection. A copy
28 of the acknowledgment of receipt of the disclosure must be
29 provided to the person signing it. A copy of the
30 acknowledgment or affidavit executed by the adoption entity in
31 lieu of the acknowledgment must be maintained in the file of

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1 the adoption entity. The original acknowledgment or affidavit
2 must be filed with the court. In the case of a disclosure
3 provided under subsection (1), the original acknowledgment or
4 affidavit must be included in the preliminary home study
5 required in s. 63.092.

6 (3) POSTBIRTH DISCLOSURE TO PARENTS.--Before execution
7 of any consent to adoption by a parent, but after the birth of
8 the minor, all requirements of subsections (1) and (2) for
9 making certain disclosures to a parent and obtaining a written
10 acknowledgment of receipt must be repeated.

11 Section 19. Section 63.087, Florida Statutes, is
12 created to read:

13 63.087 Proceeding to terminate parental rights pending
14 adoption; general provisions.--

15 (1) INTENT.--It is the intent of the Legislature that
16 a court determine whether a minor is legally available for
17 adoption through a separate proceeding terminating parental
18 rights prior to the filing of a petition for adoption.

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

22 (3) JURISDICTION.--A court of this state which is
23 competent to decide child welfare or custody matters has
24 jurisdiction to hear all matters arising from a proceeding to
25 terminate parental rights pending adoption. All subsequent
26 proceedings for the adoption of the minor, if the petition for
27 termination is granted, must be conducted by the same judge
28 who conducted the termination proceedings, if that judge is
29 still available within the division of the court which
30 conducts termination or adoption cases or, if that judge is
31 unavailable, by another judge within the division.

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1 (4) VENUE.--

2 (a) A petition to terminate parental rights pending
3 adoption must be filed:

4 1. In the county where the child resided for the
5 previous 6 months;

6 2. If the child is younger than 6 months of age or has
7 not continuously resided in one county for the previous 6
8 months, in the county where the parent resided at the time of
9 the execution of the consent to adoption or the affidavit of
10 nonpaternity;

11 3. If the child is younger than 6 months of age and a
12 waiver of venue has been obtained pursuant to 63.062 in the
13 county where the adoption entity is located or, if the
14 adoption entity has more than one place of business, in the
15 county which is located in closest proximity to the county in
16 which the parent whose rights are to be terminated resided at
17 the time of execution of the consent or affidavit of
18 nonpaternity; or

19 4. If there is no consent or affidavit of nonpaternity
20 executed by a parent, in the county where the birth mother
21 resides.

22 5. If neither parent resides in the state, venue is in
23 the county where the adoption entity is located.

24 (b) Regardless of the age of the child, if the
25 adoption entity is notified that a parent whose parental
26 rights are to be terminated intends to contest the
27 termination, venue must be in the county where that parent
28 resides. If there is no such residence in this state, venue
29 must be in the county where:

30 1. At least one parent whose rights are to be
31 terminated resides; or

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1 2. At least one parent resided at the time of
2 execution of a consent or affidavit of nonpaternity; or

3 3. The adoption entity is located if neither
4 subparagrph 1. nor subparagraph 2. applies.

5 (c) If a petition for termination of parental rights
6 has been filed and a parent whose rights are to be terminated
7 objects to venue, there shall be a hearing in which the court
8 shall immediately transfer venue to one of the counties listed
9 in this subsection. The court is to consider for purposes of
10 selecting venue the ease of access to the court of the parent
11 who intends to contest a termination of parental rights.

12 (d) If there is a transfer of venue, the adoption
13 entity or the petitioner shall bear the cost of venue
14 transfer.

15 (5) PREREQUISITE FOR ADOPTION.--A petition for
16 adoption may not be filed until 30 days after the date the
17 judge signed the judgment terminating parental rights pending
18 adoption under this chapter, unless the adoptee is an adult or
19 the minor has been the subject of a judgment terminating
20 parental rights under chapter 39.

21 (6) PETITION.--

22 (a) A proceeding seeking to terminate parental rights
23 pending adoption pursuant to this chapter must be initiated by
24 the filing of an original petition after the birth of the
25 minor.

26 (b) The petition may be filed by a parent or person
27 having legal custody of the minor. The petition may be filed
28 by an adoption entity only if a parent or person having legal
29 custody who has executed a consent to adoption pursuant to s.
30 63.082 consents in writing to the entity filing the petition.
31 The original of such consent must be filed with the petition.

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

3 (d) A petition to terminate parental rights may be
4 consolidated with a previously filed petition for a
5 declaratory statement filed under s. 63.102. Only one filing
6 fee may be assessed for both the termination of parental
7 rights and declaratory-statement petitions.

8 (e) The petition to terminate parental rights pending
9 adoption must be in writing and signed by the petitioner under
10 oath stating the petitioner's good faith in filing the
11 petition. A written consent to adoption, affidavit of
12 nonpaternity, or affidavit of diligent search under s. 63.088,
13 for each person whose consent to adoption is required under s.
14 63.062, must be executed and attached.

15 (f) The petition must include:

16 1. The minor's name, gender, date of birth, and place
17 of birth. The petition must contain all names by which the
18 minor is or has been known, excluding the minor's prospective
19 adoptive name but including the minor's legal name at the time
20 of the filing of the petition, to allow interested parties to
21 the action, including parents, persons having legal custody of
22 the minor, persons with custodial or visitation rights to the
23 minor, and persons entitled to notice pursuant to the Uniform
24 Child Custody Jurisdiction Act or the Indian Child Welfare
25 Act, to identify their own interest in the action.

26 2. If the petition is filed before the day the minor
27 is 6 months old and if the identity or location of the father
28 is unknown, each city in which the mother resided or traveled,
29 in which conception may have occurred, during the 12 months
30 before the minor's birth, including the county and state in
31 which that city is located.

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1 3. Unless a consent to adoption or affidavit of
2 nonpaternity executed by each person whose consent is required
3 under s. 63.062 is attached to the petition, the name and the
4 city of residence, including the county and state in which
5 that city is located, of:

6 a. The minor's mother;

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

9 c. Any person who has legal custody, as defined in s.
10 39.01, of the minor.

11
12 If a required name or address is not known, the petition must
13 so state.

14 4. All information required by the Uniform Child
15 Custody Jurisdiction Act and the Indian Child Welfare Act.

16 5. A statement of the grounds under s. 63.089 upon
17 which the petition is based.

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

20 7. The name, address, and telephone number of the
21 division of the circuit court in which the petition is to be
22 filed.

23 (7) ANSWER NOT REQUIRED.--An answer to the petition or
24 any pleading need not be filed by any minor, parent, or person
25 having legal custody of the minor, but any matter that might
26 be set forth in an answer or other pleading may be pleaded
27 orally before the court or filed in writing. However, failure
28 to file a written response or to appear at the hearing on the
29 petition constitutes grounds upon which the court may
30 terminate parental rights. Notwithstanding the filing of any
31 answer or any pleading, any person present at the hearing to

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1 terminate parental rights pending adoption whose consent to
2 adoption is required under s. 63.062 must:

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

6 (b) Be given an opportunity to deny the allegations in
7 the petition; and

8 (c) Be given the opportunity to challenge the validity
9 of any consent or affidavit of nonpaternity signed by any
10 person.

11 Section 20. Section 63.088, Florida Statutes, is
12 created to read:

13 63.088 Proceeding to terminate parental rights pending
14 adoption; notice and service; diligent search.--

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

26 (2) LOCATION AND IDENTITY KNOWN.--Before the court may
27 determine that a minor is available for adoption, and in
28 addition to the other requirements set forth in this chapter,
29 each person whose consent is required under s. 63.062, who has
30 not executed an affidavit of nonpaternity and whose location
31 and identity have been determined by compliance with the

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1 (3) REQUIRED INQUIRY.--In proceedings initiated under
2 s. 63.087, the court must conduct an inquiry of the person who
3 is placing the minor for adoption and of any relative or
4 person having legal custody of the minor who is present at the
5 hearing and likely to have the following information regarding
6 the identity of:

7 (a) Any person to whom the mother of the minor was
8 married at any time when conception of the minor may have
9 occurred or at the time of the birth of the minor;

10 (b) Any person who has been declared by a court to be
11 the father of the minor;

12 (c) Any man with whom the mother was cohabiting at any
13 time when conception of the minor may have occurred;

14 (d) Any person the mother has reason to believe may be
15 the father and from whom she has received payments or promises
16 of support with respect to the minor or because of her
17 pregnancy;

18 (e) Any person the mother has named as the father on
19 the birth certificate of the minor or in connection with
20 applying for or receiving public assistance;

21 (f) Any person who has acknowledged or claimed
22 paternity of the minor; and

23 (g) Any person the mother has reason to believe may be
24 the father.

25
26 The information required under this subsection may be provided
27 to the court in the form of a sworn affidavit by a person
28 having personal knowledge of the facts, addressing each
29 inquiry enumerated in this subsection, except that, if the
30 inquiry identifies a father under paragraph (a) or paragraph
31 (b), the inquiry shall not continue further. The inquiry

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1 required under this subsection may be conducted before the
2 birth of the minor.

3 (4) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry
4 by the court under subsection (3) identifies any person whose
5 consent to adoption is required under s. 63.062 and who has
6 not executed a consent to adoption or an affidavit of
7 nonpaternity, and the location of the person from whom consent
8 is required is unknown, the adoption entity must conduct a
9 diligent search for that person which must include inquiries
10 concerning:

11 (a) The person's current address, or any previous
12 address, through an inquiry of the United States Postal
13 Service through the Freedom of Information Act;

14 (b) The last known employment of the person, including
15 the name and address of the person's employer. Inquiry should
16 be made of the last known employer as to any address to which
17 wage and earnings statements (W-2 forms) of the person have
18 been mailed. Inquiry should be made of the last known employer
19 as to whether the person is eligible for a pension or
20 profit-sharing plan and any address to which pension or other
21 funds have been mailed;

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

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

27 (e) Names and addresses of relatives to the extent
28 such can be reasonably obtained from the petitioner or other
29 sources, contacts with those relatives, and inquiry as to the
30 person's last known address. The petitioner shall pursue any
31 leads of any addresses to which the person may have moved.

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1 Relatives include, but are not limited to, parents, brothers,
2 sisters, aunts, uncles, cousins, nieces, nephews,
3 grandparents, great-grandparents, former or current in-laws,
4 stepparents, and stepchildren;

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

7 (g) Telephone listings in the area where the person
8 last resided;

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

11 (i) Highway patrol records in the state where the
12 person last resided;

13 (j) Department of Corrections records in the state
14 where the person last resided;

15 (k) Hospitals in the area where the person last
16 resided;

17 (l) Records of utility companies, including water,
18 sewer, cable television, and electric companies, in the area
19 where the person last resided;

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

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

24 (o) Search of one Internet databank locator service;
25 and

26 (p) Information held by all medical providers who
27 rendered medical treatment or care to the birth mother and
28 child, including the identity and location information of all
29 persons listed by the mother as being financially responsible
30 for the uninsured expenses of treatment or care and all
31 persons who made any such payments.

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1
2 Any person contacted by a petitioner or adoption entity who is
3 requesting information pursuant to this subsection must
4 release the requested information to the petitioner or
5 adoption entity, except when prohibited by law, without the
6 necessity of a subpoena or court order. An affidavit of
7 diligent search executed by the petitioner and the adoption
8 entity must be filed with the court confirming completion of
9 each aspect of the diligent search enumerated in this
10 subsection and specifying the results. The diligent search
11 required under this subsection may be conducted before the
12 birth of the minor.

13 (5) LOCATION UNKNOWN OR IDENTITY UNKNOWN.--This
14 subsection only applies if, as to any person whose consent is
15 required under s. 63.062 and who has not executed an affidavit
16 of nonpaternity, the location or identity of the person is
17 unknown and the inquiry under subsection (3) fails to identify
18 the person or the diligent search under subsection (4) fails
19 to locate the person. The unlocated or unidentified person
20 must be served notice under subsection (2) by constructive
21 service in the manner provided in chapter 49 in each county
22 identified in the petition, as provided in s. 63.087(6). The
23 notice, in addition to all information required in the
24 petition under s. 63.087(6) and chapter 49, must contain a
25 physical description, including, but not limited to, age,
26 race, hair and eye color, and approximate height and weight of
27 the minor's mother and of any person the mother reasonably
28 believes may be the father; the minor's date of birth; and any
29 date and city, including the county and state in which the
30 city is located, in which conception may have occurred. If any
31 of the facts that must be included in the notice under this

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1 subsection are unknown and cannot be reasonably ascertained,
2 the notice must so state.

3 Section 21. Section 63.089, Florida Statutes, is
4 created to read:

5 63.089 Proceeding to terminate parental rights pending
6 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

11 (a) For each person whose consent to adoption is
12 required under s. 63.062:

13 1. A consent under s. 63.082 has been executed and
14 filed with the court;

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

17 3. Notice has been provided under ss. 63.087 and
18 63.088;

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

21 1. At least 30 days have elapsed since the date of
22 personal service and an affidavit of service has been filed
23 with the court;

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

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

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

30 (d) The petition contains all information required
31 under s. 63.087 and all affidavits of inquiry, diligent

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1 search, and service required under s. 63.088 have been
2 obtained and filed with the court.

3 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
4 ADOPTION.--The court may enter a judgment terminating parental
5 rights pending adoption if the court determines by clear and
6 convincing evidence, supported by written findings of fact,
7 that each person whose consent to adoption is required under
8 s. 63.062:

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

12 (b) Has executed an affidavit of nonpaternity and the
13 affidavit was obtained according to the requirements of this
14 chapter;

15 (c) Has been properly served notice of the proceeding
16 in accordance with the requirements of this chapter and has
17 failed to file a written answer or appear at the evidentiary
18 hearing resulting in the judgment terminating parental rights
19 pending adoption;

20 (d) Has been properly served notice of the proceeding
21 in accordance with the requirements of this chapter and has
22 been determined under subsection (4) to have abandoned the
23 minor as defined in s. 63.032;

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

27 (f) Is a person who has legal custody of the person to
28 be adopted, other than a parent, who has failed to respond in
29 writing to a request for consent for a period of 60 days or,
30 after examination of his or her written reasons for
31 withholding consent, is found by the court to be withholding

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1 his or her consent unreasonably;

2 (g) Has been properly served notice of the proceeding
3 in accordance with the requirements of this chapter, but whom
4 the court finds, after examining written reasons for the
5 withholding of consent, to be unreasonably withholding his or
6 her consent; or

7 (h) Is the spouse of the person to be adopted who has
8 failed to consent, and the failure of the spouse to consent to
9 the adoption is excused by reason of prolonged and unexplained
10 absence, unavailability, incapacity, or circumstances that are
11 found by the court to constitute unreasonable withholding of
12 consent.

13 (4) FINDING OF ABANDONMENT.--A finding of abandonment
14 resulting in a termination of parental rights must be based
15 upon clear and convincing evidence. A finding of abandonment
16 may not be based upon a lack of emotional support to a birth
17 mother during her pregnancy, but may be based upon emotional
18 abuse to a birth mother during her pregnancy.

19 (a) In making a determination of abandonment at a
20 hearing for termination of parental rights pursuant to this
21 chapter, the court must consider:

22 1. Whether the actions alleged to constitute
23 abandonment demonstrate a willful disregard for the safety or
24 welfare of the child or unborn child;

25 2. Whether other persons prevented the person alleged
26 to have abandoned the child from making the efforts referenced
27 in this subsection;

28 3. Whether the person alleged to have abandoned the
29 child, while being able, refused to provide financial support
30 after such person was informed he may be the father of the
31 child;

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1 4. Whether the person alleged to have abandoned the
2 child, while being able, refused to pay for medical treatment
3 when such payment was requested by the person having legal
4 custody of the child and those expenses were not covered by
5 insurance or other available sources;

6 5. Whether the amount of support provided or medical
7 expenses paid was appropriate, taking into consideration the
8 needs of the child and relative means and resources available
9 to the person alleged to have abandoned the child and
10 available to the person having legal custody of the child
11 during the period the child allegedly was abandoned; and

12 6. Whether the person having legal custody of the
13 child made the child's whereabouts known to the person alleged
14 to have abandoned the child, advised that person of the needs
15 of the child or the needs of the mother of an unborn child
16 with regard to the pregnancy, or informed that person of
17 events such as medical appointments and tests relating to the
18 child or, if unborn, the pregnancy.

19 (b) The child has been abandoned when the parent of a
20 child is incarcerated on or after October 1, 1999, in a state
21 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, convicted of child abuse as defined in s. 827.03, or
30 a sexual predator as defined in s. 775.21; has been convicted
31 of first degree or second degree murder in violation of s.

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1 782.04 or a sexual battery that constitutes a capital, life,
2 or first degree felony violation of s. 794.011; or has been
3 convicted of an offense in another jurisdiction which is
4 substantially similar to one of the offenses listed in this
5 paragraph. As used in this section, the term "substantially
6 similar offense" means any offense that is substantially
7 similar in elements and penalties to one of those listed in
8 this paragraph, and that is in violation of a law of any other
9 jurisdiction, whether that of another state, the District of
10 Columbia, the United States or any possession or territory
11 thereof, or any foreign jurisdiction; and

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

17 (c) The only conduct of a father toward a mother
18 during pregnancy that the court may consider in determining
19 whether the child has been abandoned is conduct that occurred
20 after the father was informed he may be the father of the
21 child or after diligent search and notice as provided in s.
22 63.088 have been made to inform the father that he is, or may
23 be, the father of the child.

24 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
25 court does not find by clear and convincing evidence that
26 parental rights of a parent should be terminated pending
27 adoption, the court must dismiss the petition with prejudice
28 and that parent's parental rights that were the subject of
29 such petition remain in full force under the law. The order
30 must include written findings in support of the dismissal,
31 including findings as to the criteria in subsection (4) if

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1 rejecting a claim of abandonment. Parental rights may not be
2 terminated based upon a consent that the court finds has been
3 timely withdrawn under s. 63.082 or a consent to adoption or
4 affidavit of nonpaternity that the court finds was obtained by
5 fraud or under duress. The court must enter an order based
6 upon written findings providing for the placement of the
7 minor. The court may order scientific testing to determine the
8 paternity of the minor at any time during which the court has
9 jurisdiction over the minor. Further proceedings, if any,
10 regarding the minor must be brought in a separate custody
11 action under chapter 61, a dependency action under chapter 39,
12 or a paternity action under chapter 742.

13 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
14 ADOPTION.--

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

18 (b) Within 24 hours after filing, the clerk of the
19 court shall mail a copy of the judgment to the department, the
20 petitioner, those persons required to give consent under s.
21 63.062, and the respondent. The clerk shall execute a
22 certificate of each mailing.

23 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
24 RIGHTS.--

25 (a) A judgment terminating parental rights pending
26 adoption is voidable and any later judgment of adoption of
27 that minor is voidable if, upon the motion of a parent, the
28 court finds that a person knowingly gave false information
29 that prevented the parent from timely making known his or her
30 desire to assume parental responsibilities toward the minor or
31 meeting the requirements under this chapter to exercise his or

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1 her parental rights. A motion under this subsection must be
2 filed with the court originally entering the judgment. The
3 motion must be filed within a reasonable time, but not later
4 than 2 years after the entry of the judgment terminating
5 parental rights.

6 (b) No later than 30 days after the filing of a motion
7 under this subsection, the court must conduct a preliminary
8 hearing to determine what contact, if any, shall be permitted
9 between a parent and the child pending resolution of the
10 motion. Such contact shall be considered only if it is
11 requested by a parent who has appeared at the hearing. If the
12 court orders contact between a parent and child, the order
13 must be issued in writing as expeditiously as possible and
14 must state with specificity any provisions regarding contact
15 with persons other than those with whom the child resides.

16 (c) At the preliminary hearing, the court, upon the
17 motion of any party or upon its own motion, may order
18 scientific testing to determine the paternity of the minor if
19 the person seeking to set aside the judgment is alleging to be
20 the child's 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 for whom scientific
23 testing for paternity has been ordered. Such visitation shall
24 be conditioned upon the filing of those test results with the
25 court and such results establishing that person's paternity of
26 the minor.

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

31 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and

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1 records pertaining to a petition to terminate parental rights
2 pending adoption are related to the subsequent adoption of the
3 minor and are subject to the provisions of s. 63.162. The
4 confidentiality provisions of this chapter do not apply to the
5 extent information regarding persons or proceedings must be
6 made available as specified under s. 63.088.

7 Section 22. Section 63.092, Florida Statutes, 1998
8 Supplement, is amended to read:

9 63.092 Report to the court of intended placement by an
10 adoption entity; at-risk placement intermediary; preliminary
11 study.--

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

19 (2) AT-RISK PLACEMENT.--If the minor is placed in the
20 prospective adoptive home before the parental rights of the
21 minor's parents are terminated under s. 63.089, the placement
22 is an at-risk placement. If the placement is an at-risk
23 placement, the prospective adoptive parents must acknowledge
24 in writing before the minor may be placed in the prospective
25 adoptive home that the placement is at risk and that the minor
26 is subject to removal from the prospective adoptive home by
27 the adoption entity or by court order.

28 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the
29 minor in the intended adoptive home, a preliminary home study
30 must be performed by a licensed child-placing agency, a
31 licensed professional, or agency described in s. 61.20(2),

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1 unless the petitioner is a stepparent, a spouse of the ~~birth~~
2 parent, or a relative. The preliminary study shall be
3 completed within 30 days after the receipt by the court of the
4 adoption entity's intermediary's report, but in no event may
5 the minor child be placed in the prospective adoptive home
6 prior to the completion of the preliminary study unless
7 ordered by the court. If the petitioner is a stepparent, a
8 spouse of the ~~birth~~ parent, or a relative, the preliminary
9 home study may be required by the court for good cause shown.
10 The department is required to perform the preliminary home
11 study only if there is no licensed child-placing agency,
12 licensed professional, or agency described in s. 61.20(2), in
13 the county where the prospective adoptive parents reside. The
14 preliminary home study must be made to determine the
15 suitability of the intended adoptive parents and may be
16 completed prior to identification of a prospective adoptive
17 minor child. A favorable preliminary home study is valid for
18 1 year after the date of its completion. A minor may child
19 ~~must~~ not be placed in an intended adoptive home before a
20 favorable preliminary home study is completed unless the
21 adoptive home is also a licensed foster home under s. 409.175.
22 The preliminary home study must include, at a minimum:
23 (a) An interview with the intended adoptive parents;
24 (b) Records checks of the department's central abuse
25 registry and criminal records correspondence checks pursuant
26 to s. 435.045 through the Department of Law Enforcement on the
27 intended adoptive parents;
28 (c) An assessment of the physical environment of the
29 home;
30 (d) A determination of the financial security of the
31 intended adoptive parents;

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1 (e) Documentation of counseling and education of the
2 intended adoptive parents on adoptive parenting;

3 (f) Documentation that information on adoption and the
4 adoption process has been provided to the intended adoptive
5 parents;

6 (g) Documentation that information on support services
7 available in the community has been provided to the intended
8 adoptive parents; and

9 (h) A copy of each ~~the~~ signed acknowledgment statement
10 required by s. 63.085~~7~~ and

11 ~~(i) A copy of the written acknowledgment required by~~
12 ~~s. 63.085(1).~~

13
14 If the preliminary home study is favorable, a minor may be
15 placed in the home pending entry of the judgment of adoption.
16 A minor may not be placed in the home if the preliminary home
17 study is unfavorable. If the preliminary home study is
18 unfavorable, the adoption entity intermediary or petitioner
19 may, within 20 days after receipt of a copy of the written
20 recommendation, petition the court to determine the
21 suitability of the intended adoptive home. A determination as
22 to suitability under this subsection does not act as a
23 presumption of suitability at the final hearing. In
24 determining the suitability of the intended adoptive home, the
25 court must consider the totality of the circumstances in the
26 home.

27 Section 23. Section 63.097, Florida Statutes, is
28 amended to read:

29 63.097 Fees.--

30 (1) When the adoption entity is an agency, fees may be
31 assessed if they are approved by the department within the

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1 process of licensing the agency and if they are for:
2 (a) Foster care expenses;
3 (b) Preplacement and post-placement social services;
4 and
5 (c) Agency facility and administrative costs.
6 (2) The following fees, costs, and expenses may be
7 assessed by the adoption entity or paid by the adoption entity
8 on behalf of the prospective adoptive parents:
9 (a) Reasonable living expenses of the birth mother
10 which the birth mother is unable to pay due to unemployment,
11 underemployment, or disability due to the pregnancy which is
12 certified by a medical professional who has examined the birth
13 mother, or any other disability defined in s. 110.215.
14 Reasonable living expenses are rent, utilities, basic
15 telephone service, food, necessary clothing, transportation,
16 and expenses found by the court to be necessary for the health
17 of the unborn child.
18 (b) Reasonable and necessary medical expenses.
19 (c) Expenses necessary to comply with the requirements
20 of this chapter, including, but not limited to, service of
21 process under s. 63.088, a diligent search under s. 63.088, a
22 preliminary home study under s. 63.092, and a final home
23 investigation under s. 63.125.
24 (d) Court filing expenses, court costs, and other
25 litigation expenses.
26 (e) Costs associated with advertising under s.
27 63.212(1)(g).
28 (f) The following professional fees:
29 1. A reasonable hourly fee necessary to provide legal
30 representation to the adoptive parents or adoption entity in a
31 proceeding filed under this chapter.

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

11 3. A reasonable hourly fee for counseling services
 12 provided to a parent or a prospective 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, or a counselor who is
 16 employed by an adoption entity accredited by the Council on
 17 Accreditation of Services for Children and Families to provide
 18 pregnancy counseling and supportive services.

19 (3) Prior approval of the court is not required until
 20 the cumulative total of amounts permitted under subsection (2)
 21 exceeds:

- 22 (a) \$2,500 in legal or other fees;
- 23 (b) \$500 in court costs;
- 24 (c) \$3,000 in expenses; or
- 25 (d) \$1,500 cumulative expenses that are related to the
 26 minor, the pregnancy, a parent, or adoption proceeding, which
 27 expenses are incurred prior to the date the prospective
 28 adoptive parent retains the adoption entity.

29 (4) Any fees, costs, or expenses not included in
 30 subsection (2) or prohibited under subsection (5) require
 31 court approval prior to payment and must be based on a finding

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1 of extraordinary circumstances.

2 (5) The following fees, costs, and expenses are
3 prohibited:

4 (a) Any fee or expense that constitutes payment for
5 locating a minor for adoption.

6 (b) Any lump-sum payment to the entity which is
7 nonrefundable directly to the payor or which is not itemized
8 on the affidavit filed under s. 63.132.

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

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

23 ~~(6)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--Unless~~
24 ~~otherwise indicated in this section,when an adoption entity~~
25 ~~intermediary uses the services of a licensed child-placing~~
26 ~~agency, a professional, any other person or agency pursuant to~~
27 ~~s. 63.092, or, if necessary, the department, the person~~
28 ~~seeking to adopt the child must pay the licensed child-placing~~
29 ~~agency, professional, other person or agency, or the~~
30 ~~department an amount equal to the cost of all services~~
31 ~~performed, including, but not limited to, the cost of~~

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1 conducting the preliminary home study, counseling, and the
2 final home investigation. The court, upon a finding that the
3 person seeking to adopt the child is financially unable to pay
4 that amount, may order that such person pay a lesser amount.

5 Section 24. Section 63.102, Florida Statutes, is
6 amended to read:

7 63.102 Filing of petition for adoption or declaratory
8 statement; venue; proceeding for approval of fees and costs.--

9 (1) A petition for adoption may not be filed until 30
10 days after the date of the entry of the judgment terminating
11 parental rights pending adoption under this chapter, unless
12 the adoptee is an adult or the minor has been the subject of a
13 judgment terminating parental rights under chapter 39. After a
14 judgment terminating parental rights has been entered, a
15 proceeding for adoption may ~~shall~~ be commenced by filing a
16 petition entitled, "In the Matter of the Adoption of" in
17 the circuit court. The person to be adopted shall be
18 designated in the caption in the name by which he or she is to
19 be known if the petition is granted. ~~If the child is placed~~
20 ~~for adoption by an agency,~~ Any name by which the minor child
21 was previously known may ~~shall~~ not be disclosed in the
22 petition, the notice of hearing, or the judgment of adoption.

23 (2) A petition for adoption or for a declaratory
24 statement as to the adoption contract shall be filed in the
25 county where the petition for termination of parental rights
26 was granted, unless the court in accordance with s. 47.122,
27 changes the venue to the county where the petitioner or
28 petitioners or the minor child resides or where the agency or
29 adoption entity with in which the minor child has been placed
30 is located. The circuit court in this state must retain
31 jurisdiction over the matter until a final judgment is entered

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1 on the adoption. The Uniform Child Custody Jurisdiction Act
2 does not apply until a final judgment is entered on the
3 adoption.

4 (3) Except for adoptions involving placement of a
5 minor child with a relative within the third degree of
6 consanguinity, a petition for adoption in an adoption handled
7 by an adoption entity intermediary shall be filed within 60 30
8 working days after entry of the judgment terminating parental
9 rights placement of a child with a parent seeking to adopt the
10 child. If no petition is filed within 60 30 days, any
11 interested party, including the state, may file an action
12 challenging the prospective adoptive parent's physical custody
13 of the minor child.

14 (4) If the filing of the petition for adoption or for
15 a declaratory statement as to the adoption contract in the
16 county where the petitioner or minor child resides would tend
17 to endanger the privacy of the petitioner or minor child, the
18 petition for adoption may be filed in a different county,
19 provided the substantive rights of any person will not thereby
20 be affected.

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

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

29 (b) A contract for the payment of fees, costs, and
30 expenses permitted under this chapter must be in writing, and
31 any person who enters into the contract has 3 business days in

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1 which to cancel the contract. To cancel the contract, the
2 person must notify the adoption entity in writing by certified
3 United States mail, return receipt requested, no later than 3
4 business days after signing the contract. For the purposes of
5 this subsection, the term "business day" means a day on which
6 the United States Postal Service accepts certified mail for
7 delivery. If the contract is canceled within the first 3
8 business days, the person who cancels the contract does not
9 owe any legal, intermediary, or other fees, but may be
10 responsible for the adoption entity's actual costs during that
11 time.

12 (c) The court may grant prior approval only of fees
13 and expenses permitted under s. 63.097. A prior approval of
14 prospective fees and costs does not create a presumption that
15 these items will subsequently be approved by the court under
16 s. 63.132. The court, under s. 63.132, may order an adoption
17 entity to refund any amount paid under this subsection that is
18 subsequently found by the court to be greater than fees,
19 costs, and expenses actually incurred.

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

24 (e) A petition for adoption filed under this section
25 may be consolidated with a previously filed petition for a
26 declaratory statement. Only one filing fee may be assessed for
27 both the adoption and declaratory-statement petitions.

28 (f) Prior approval of fees and costs by the court does
29 not obligate the parent to ultimately relinquish the minor for
30 adoption. ~~If a petition for adoption is subsequently filed,~~
31 ~~the petition for declaratory statement and the petition for~~

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1 ~~adoption must be consolidated into one case.~~

2 Section 25. Section 63.112, Florida Statutes, is
3 amended to read:

4 63.112 Petition for adoption; description; report or
5 recommendation, exceptions; mailing.--

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

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

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

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

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

17 (e) The marital status of the petitioner, including
18 the date and place of marriage, if married, and divorces, if
19 any;

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

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

25 (h) The case style and date of entry of the judgment
26 terminating parental rights or the judgment declaring a minor
27 available for adoption name and address, if known, of any
28 person whose consent to the adoption is required, but who has
29 not consented, and facts or circumstances that excuse the lack
30 of consent; and

31 (i) The reasons why the petitioner desires to adopt

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1 the person.

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

4 (a) A certified copy of the court judgment terminating
5 parental rights under chapter 39 or the judgment declaring a
6 minor available for adoption under this chapter.~~The required~~
7 ~~consents, unless consent is excused by the court.~~

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

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

14 1. ~~The birth mother, if parental rights have not been~~
15 ~~terminated;~~

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

18 3. the minor child, if older than 12 years of age,
19 unless the court, in the best interest of the minor child,
20 dispenses with the minor's ~~child's~~ consent under s.
21 63.062(1)(f)~~63.062(1)(c)~~.

22

23 ~~The court may waive the requirement for an interview with the~~
24 ~~birth mother or birth father in the investigation for good~~
25 ~~cause shown.~~

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

30 (4) The clerk of the court shall mail a copy of the
31 petition within 24 hours after filing, and execute a

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1 certificate of mailing, to the adoption entity ~~department and~~
2 ~~the agency~~ placing the minor, if any.

3 Section 26. Section 63.122, Florida Statutes, is
4 amended to read:

5 63.122 Notice of hearing on petition.--

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

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

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

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

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

30 ~~(b) The intermediary.~~

31 ~~(c) Any person whose consent to the adoption is~~

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1 ~~required by this act who has not consented, unless such~~
2 ~~person's consent is excused by the court.~~

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

4 (5) After filing the petition to adopt an adult, a
5 notice of the time and place of the hearing must be given to
6 any person whose consent to the adoption is required but who
7 has not consented. The court may order an appropriate
8 investigation to assist in determining whether the adoption is
9 in the best interest of the persons involved.

10 Section 27. Section 63.125, Florida Statutes, is
11 amended to read:

12 63.125 Final home investigation.--

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

27 (2) The department, the licensed child-placing agency,
28 or the professional that performs the investigation must file
29 a written report of the investigation with the court and the
30 petitioner within 90 days after the date the petition is
31 filed.

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1 (3) The report of the investigation must contain an
2 evaluation of the placement with a recommendation on the
3 granting of the petition for adoption and any other
4 information the court requires regarding the petitioner or the
5 minor.

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

12 (5) The final home investigation must include:

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

14 (b) After the minor child is placed in the intended
15 adoptive home, two scheduled visits with the minor child and
16 the minor's child's adoptive parent or parents, one of which
17 visits must be in the home, to determine the suitability of
18 the placement.

19 (c) The family social and medical history as provided
20 in s. 63.082.

21 (d) Any other information relevant to the suitability
22 of the intended adoptive home.

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

25 Section 28. Section 63.132, Florida Statutes, is
26 amended to read:

27 63.132 Affidavit Report of expenses ~~expenditures~~ and
28 receipts.--

29 (1) At least 10 days before the hearing on the
30 petition for adoption, the prospective adoptive parent
31 ~~petitioner~~ and any adoption entity ~~intermediary~~ must file two

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1 copies of an affidavit under this section.

2 (a) The affidavit must be signed by the adoption
3 entity and the prospective adoptive parents. A copy of the
4 affidavit must be provided to the adoptive parents at the time
5 the affidavit is executed.

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

19 (c) The clerk of the court shall forward a copy of the
20 affidavit to the department.

21 (d) The affidavit report must show any expenses or
22 receipts incurred in connection with:

23 1.(a) The birth of the minor.

24 2.(b) The placement of the minor with the petitioner.

25 3.(c) The medical or hospital care received by the
26 mother or by the minor during the mother's prenatal care and
27 confinement.

28 4.(d) The living expenses of the birth mother. The
29 living expenses must be documented in detail to apprise the
30 court of the exact expenses incurred.

31 5.(e) The services relating to the adoption or to the

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1 placement of the minor for adoption that were received by or
 2 on behalf of the petitioner, the adoption entity intermediary,
 3 either ~~natural~~ parent, the minor, or any other person.

4
 5 The affidavit must state whether any of these expenses were
 6 paid for by collateral sources, including, but not limited to,
 7 health insurance, Medicaid, Medicare, or public assistance.

8 (2) The court may require such additional information
 9 as is deemed necessary.

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

16 (a) Contrary to this chapter;

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

19 (c) Not a reasonable fee or expense, considering the
 20 requirements of this chapter and the totality of the
 21 circumstances.

22 ~~(4)~~(3) This section does not apply to an adoption by a
 23 stepparent whose spouse is a ~~natural or adoptive~~ parent of the
 24 minor child.

25 Section 29. Section 63.142, Florida Statutes, is
 26 amended to read:

27 63.142 Hearing; judgment of adoption.--

28 (1) APPEARANCE.--The petitioner and the person to be
 29 adopted shall appear at the hearing on the petition for
 30 adoption, unless:

31 (a) The person is a minor under 12 years of age; or

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1 (b) The presence of either is excused by the court for
2 good cause.

3 (2) CONTINUANCE.--The court may continue the hearing
4 from time to time to permit further observation,
5 investigation, or consideration of any facts or circumstances
6 affecting the granting of the petition.

7 (3) DISMISSAL.--

8 (a) If the petition is dismissed, the court shall
9 determine the person that is to have custody of the minor.

10 (b) If the petition is dismissed, the court shall
11 state with specificity the reasons for the dismissal.

12 (4) JUDGMENT.--At the conclusion of the hearing, after
13 when the court determines that the date for a parent to file
14 an appeal of a valid judgment terminating that parent's
15 parental rights has passed and no appeal, pursuant to the
16 Florida Rules of Appellate Procedure, is pending all necessary
17 consents have been obtained and that the adoption is in the
18 best interest of the person to be adopted, a judgment of
19 adoption shall be entered.

20 (a) A judgment terminating parental rights pending
21 adoption is voidable and any later judgment of adoption of
22 that minor is voidable if, upon a motion to set aside of a
23 parent, the court finds that any person knowingly gave false
24 information that prevented the parent from timely making known
25 his or her desire to assume parental responsibilities toward
26 the minor or meeting the requirements under this chapter to
27 exercise his or her parental rights. A motion under this
28 paragraph must be filed with the court that entered the
29 original judgment. The motion must be filed within a
30 reasonable time, but not later than 2 years after the date the
31 judgment terminating parental rights was entered.

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1 (b) Except upon good cause shown, no later than 30
2 days after the filing of a motion under this subsection, the
3 court must conduct a preliminary hearing to determine what
4 contact, if any, shall be permitted between a parent and the
5 child pending resolution of the motion. Such contact shall be
6 considered only if it is requested by a parent who has
7 appeared at the hearing. If the court orders contact between a
8 parent and child, the order must be issued in writing as
9 expeditiously as possible and must state with specificity any
10 provisions regarding contact with persons other than those
11 with whom the child resides.

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

23 (d) Except upon good cause shown, no later than 45
24 days after the preliminary hearing, the court must conduct a
25 final hearing on the motion to set aside the judgment and
26 issue its written order as expeditiously as possible
27 thereafter.

28 Section 30. Subsection (2) of section 63.162, Florida
29 Statutes, is amended to read:

30 63.162 Hearings and records in adoption proceedings;
31 confidential nature.--

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1 (2) All papers and records pertaining to the adoption,
2 including the original birth certificate, whether part of the
3 permanent record of the court or a file in the office of an
4 adoption entity department, ~~in a licensed child-placing~~
5 ~~agency, or in the office of an intermediary~~ are confidential
6 and subject to inspection only upon order of the court;
7 however, the petitioner in any proceeding for adoption under
8 this chapter may, at the option of the petitioner, make public
9 the reasons for a denial of the petition for adoption. The
10 order must specify which portion of the records are subject to
11 inspection, and it may exclude the name and identifying
12 information concerning the ~~birth~~ parent or adoptee. Papers and
13 records of the department, a court, or any other governmental
14 agency, which papers and records relate to adoptions, are
15 exempt from s. 119.07(1). In the case of a nonagency
16 adoption, the department must be given notice of hearing and
17 be permitted to present to the court a report on the
18 advisability of disclosing or not disclosing information
19 pertaining to the adoption. In the case of an agency
20 adoption, the licensed child-placing agency must be given
21 notice of hearing and be permitted to present to the court a
22 report on the advisability of disclosing or not disclosing
23 information pertaining to the adoption. This subsection does
24 not prohibit the department from inspecting and copying any
25 official record pertaining to the adoption that is maintained
26 by the department and does not prohibit an agency from
27 inspecting and copying any official record pertaining to the
28 adoption that is maintained by that agency.

29 Section 31. Section 63.165, Florida Statutes, is
30 amended to read:

31 63.165 State registry of adoption information; duty to

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1 inform and explain.--Notwithstanding any other law to the
2 contrary, the department shall maintain a registry with the
3 last known names and addresses of an adoptee and his or her
4 ~~natural~~ parents whose consent was required under s. 63.062,
5 and adoptive parents and any other identifying information
6 that which the adoptee, ~~natural~~ parents whose consent was
7 required under s. 63.062, or adoptive parents desire to
8 include in the registry. The department shall maintain the
9 registry records for the time required by rules adopted by the
10 department in accordance with this chapter or for 99 years,
11 whichever period is greater.The registry shall be open with
12 respect to all adoptions in the state, regardless of when they
13 took place. The registry shall be available for those persons
14 choosing to enter information therein, but no one shall be
15 required to do so.

16 (1) Anyone seeking to enter, change, or use
17 information in the registry, or any agent of such person,
18 shall present verification of his or her identity and, if
19 applicable, his or her authority. A person who enters
20 information in the registry shall be required to indicate
21 clearly the persons to whom he or she is consenting to release
22 this information, which persons shall be limited to the
23 adoptee and the birth ~~natural~~ mother, ~~natural~~ father whose
24 consent was required under s. 63.062, adoptive mother,
25 adoptive father, birth ~~natural~~ siblings, and maternal and
26 paternal birth ~~natural~~ grandparents of the adoptee. Except as
27 provided in this section, information in the registry is
28 confidential and exempt from ~~the provisions of~~ s. 119.07(1).
29 Consent to the release of this information may be made in the
30 case of a minor adoptee by his or her adoptive parents or by
31 the court after a showing of good cause. At any time, any

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1 person may withdraw, limit, or otherwise restrict consent to
 2 release information by notifying the department in writing.

3 (2) The department may charge a reasonable fee to any
 4 person seeking to enter, change, or use information in the
 5 registry. The department shall deposit such fees in a trust
 6 fund to be used by the department only for the efficient
 7 administration of this section. The department and agencies
 8 shall make counseling available for a fee to all persons
 9 seeking to use the registry, and the department shall inform
 10 all affected persons of the availability of such counseling.

11 (3) The adoption entity ~~department, intermediary, or~~
 12 ~~licensed child-placing agency~~ must inform the birth parents
 13 before parental rights are terminated, and the adoptive
 14 parents before placement, in writing, of the existence and
 15 purpose of the registry established under this section, but
 16 failure to do so does not affect the validity of any
 17 proceeding under this chapter.

18 Section 32. Section 63.182, Florida Statutes, is
 19 amended to read:

20 (Substantial rewording of section. See
 21 s. 63.182, F.S., for present text.)
 22 63.182 Statute of repose.--

23 (1) An action or proceeding of any kind to vacate, set
 24 aside, or otherwise nullify a judgment of adoption or an
 25 underlying judgment terminating parental rights on any ground,
 26 including duress but excluding fraud, shall in no event be
 27 filed more than 1 year after entry of the judgment terminating
 28 parental rights.

29 (2) An action or proceeding of any kind to vacate, set
 30 aside, or otherwise nullify a judgment of adoption or an
 31 underlying judgment terminating parental rights on grounds of

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1 fraud shall in no event be filed more than 2 years after entry
 2 of the judgment terminating parental rights.

3 Section 33. Subsection (2) of section 63.202, Florida
 4 Statutes, is amended to read:

5 63.202 Authority to license; adoption of rules.--

6 (2) No agency shall place a minor for adoption unless
 7 such agency is licensed by the department, except a
 8 child-caring agency registered under s. 409.176.

9 Section 34. Section 63.207, Florida Statutes, is
 10 amended to read:

11 63.207 Out-of-state placement.--

12 (1) Unless the parent placing a minor for adoption
 13 files an affidavit that the parent chooses to place the minor
 14 outside the state, giving the reason for that placement, or
 15 the minor child is to be placed with a relative within the
 16 third degree or with a stepparent, or the minor is a special
 17 needs child, as defined in s. 409.166, or for other good cause
 18 shown, an adoption entity may not no person except an
 19 intermediary, an agency, or 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

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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 prospective adoptive parents must come to this state to
6 have the adoption finalized. Violation of the order subjects
7 the adoption entity intermediary to contempt of court and to
8 the 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 35. Section 63.212, Florida Statutes, is
19 amended to read:

20 63.212 Prohibited acts; penalties for violation;
21 preplanned adoption agreement.--

22 (1) It is unlawful for any person:

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

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1 This requirement does not apply if the minor child is placed
2 by an adoption entity in accordance with s. 63.207 ~~with a~~
3 ~~relative within the third degree or with a stepparent.~~

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

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

25 ~~(c)(d) To sell or surrender, or to arrange for the~~
26 ~~sale or surrender of, a minor child to another person for~~
27 ~~money or anything of value or to receive such minor child for~~
28 ~~such payment or thing of value. If a minor child is being~~
29 ~~adopted by a relative within the third degree or by a~~
30 ~~stepparent, or is being adopted through an adoption entity,~~
31 ~~this paragraph does not prohibit the Department of Children~~

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

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

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

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

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

31 (h)~~(i)~~ To contract for the purchase, sale, or transfer

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

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

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

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

30 2. A preplanned adoption arrangement shall be based
31 upon a preplanned adoption agreement that must ~~which shall~~

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1 include, but need not be limited to, the following terms:

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

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

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

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

29 e. That the intended father and intended mother
30 acknowledge that they may not receive custody or the parental
31 rights under the agreement if the volunteer mother terminates

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1 the agreement or if the volunteer mother rescinds her consent
2 to place her child for adoption within 7 days after birth.

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

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

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

18 i. That the agreement may be terminated at any time by
19 any of the parties.

20 3. A preplanned adoption agreement shall not contain
21 any provision:

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

26 b. Requiring the termination of the volunteer mother's
27 pregnancy.

28 4. An attorney who represents an intended father and
29 intended mother or any other attorney with whom that attorney
30 is associated shall not represent simultaneously a female who
31 is or proposes to be a volunteer mother in any matter relating

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1 to a preplanned adoption agreement or preplanned adoption
2 arrangement.

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

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

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

16 b. "Child" means the child or children conceived by
17 means of an insemination that is part of a preplanned adoption
18 arrangement.

19 c. "Fertility technique" means artificial
20 embryonation, artificial insemination, whether in vivo or in
21 vitro, egg donation, or embryo adoption.

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

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

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1 f. "Parties" means the intended father and intended
2 mother, the volunteer mother and her husband, if she has a
3 husband, who are all parties to the preplanned adoption
4 agreement.

5 g. "Preplanned adoption agreement" means a written
6 agreement among the parties that specifies the intent of the
7 parties as to their rights and responsibilities in the
8 preplanned adoption arrangement, consistent with the
9 provisions of this act.

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

21 i. "Volunteer mother" means a female person at least
22 18 years of age who voluntarily agrees, subject to a right of
23 rescission, that if she should become pregnant pursuant to a
24 preplanned adoption arrangement, she will terminate in favor
25 of the intended father and intended mother her parental rights
26 and responsibilities to the child.

27 (2)(a) It is unlawful for any person under this
28 chapter to:

- 29 1. Knowingly provide false information;
30 2. Knowingly withhold material information; or
31 3. For a parent, with the intent to defraud, to accept

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1 benefits related to the same pregnancy from more than one
2 adoption entity without disclosing that fact to each entity.

3 (b) It is unlawful for any person who knows that the
4 parent whose rights are to be terminated intends to object to
5 said termination to intentionally file the petition for
6 termination of parental rights in a county inconsistent with
7 the required venue under such circumstances.

8 (c) Any person who willfully violates any provision of
9 this subsection commits a misdemeanor of the second degree,
10 punishable as provided in s. 775.082 or s. 775.083. In
11 addition, such person is liable for damages caused by such
12 acts or omissions, including reasonable attorney's fees and
13 costs. Damages may be awarded through restitution in any
14 related criminal prosecution or by filing a separate civil
15 action.

16 (3)(2) This section does not ~~Nothing herein shall be~~
17 ~~construed to prohibit an adoption entity a licensed~~
18 ~~child-placing agency from charging fees permitted under this~~
19 ~~chapter and reasonably commensurate to the services provided.~~

20 (4)(3) It is unlawful for any adoption entity
21 intermediary to fail to report to the court, prior to
22 placement, the intended placement of a minor child for
23 purposes of adoption with any person not a stepparent or a
24 relative within the third degree, if the adoption entity
25 intermediary participates in such intended placement.

26 (5)(4) It is unlawful for any adoption entity
27 intermediary to charge any fee except those fees permitted
28 under s. 63.097 and approved under s. 63.102 ~~over \$1,000 and~~
29 ~~those costs as set out in paragraph (1)(d) over \$2,500, other~~
30 ~~than for actual documented medical costs, court costs, and~~
31 ~~hospital costs unless such fee is approved by the court prior~~

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1 ~~to the assessment of the fee by the intermediary and upon a~~
 2 ~~showing of justification for the larger fee.~~

3 ~~(6)(5)~~ It is unlawful for any adoption entity
 4 ~~intermediary~~ to counsel a birth mother to leave the state for
 5 the purpose of giving birth to a child outside the state in
 6 order to secure a fee in excess of that permitted under s.
 7 63.097 when it is the intention that the child be placed for
 8 adoption outside the state.

9 ~~(7)(6)~~ It is unlawful for any adoption entity
 10 ~~intermediary~~ to obtain a preliminary home study or final home
 11 investigation and fail to disclose the existence of the study
 12 or investigation to the court.

13 ~~(8)(7)~~ Unless otherwise indicated, a person who
 14 violates any provision of this section, excluding paragraph
 15 ~~(1)(g)(h)~~, commits ~~is guilty of~~ a felony of the third degree,
 16 punishable as provided in s. 775.082, s. 775.083, or s.
 17 775.084. A person who violates paragraph ~~(1)(g)(h)~~ commits ~~is~~
 18 ~~guilty of~~ a misdemeanor of the second degree, punishable as
 19 provided in s. 775.083; and each day of continuing violation
 20 shall be considered a separate offense.

21 Section 36. Section 63.219, Florida Statutes, is
 22 amended to read:

23 63.219 Sanctions.--Upon a finding by the court that an
 24 adoption entity ~~intermediary or agency~~ has violated any
 25 provision of this chapter, the court is authorized to prohibit
 26 the adoption entity ~~intermediary or agency~~ from placing a
 27 minor for adoption in the future.

28 Section 37. Paragraph (c) of subsection (1) and
 29 paragraph (c) of subsection (2) of section 63.301, Florida
 30 Statutes, are amended to read:

31 63.301 Advisory council on adoption.--

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1 (1) There is created within the Department of Children
2 and Family Services an advisory council on adoption. The
3 council shall consist of 17 members to be appointed by the
4 Secretary of Children and Family Services as follows:

5 (c) One member shall be a representative from a
6 child-caring agency registered under s. 409.176 that ~~physician~~
7 ~~licensed to practice in Florida who, as an intermediary,~~
8 places or has placed children for adoption.

9
10 All members shall be appointed to serve 2-year terms.

11 (2) The functions of the council shall be to:

12 (c) Review and evaluate law, procedures, policies, and
13 practice regarding the protection of children placed for
14 adoption, ~~birth~~ parents, and adoptive parents utilizing the
15 services of an adoption entity ~~the Department of Children and~~
16 ~~Family Services, licensed child placing agencies, and~~
17 ~~intermediaries~~, to determine areas needing legislative,
18 administrative, or other interventions.

19 Section 38. Subsections (49) and (50) of section
20 39.01, Florida Statutes, 1998 Supplement, are amended to read:

21 39.01 Definitions.--When used in this chapter, unless
22 the context otherwise requires:

23 (49) "Parent" means a woman who gives birth to a child
24 and a man whose consent to the adoption of the child would be
25 required under s. 63.062(1)~~s. 63.062(1)(b)~~. If a child has
26 been legally adopted, the term "parent" means the adoptive
27 mother or father of the child. The term does not include an
28 individual whose parental relationship to the child has been
29 legally terminated, or an alleged or prospective parent,
30 unless the parental status falls within the terms of s.
31 39.503(1)~~s. 39.4051(1)~~ or s. 63.062(1)~~(b)~~.

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1 (50) "Participant," for purposes of a shelter
2 proceeding, dependency proceeding, or termination of parental
3 rights proceeding, means any person who is not a party but who
4 should receive notice of hearings involving the child,
5 including foster parents or caregivers, identified prospective
6 parents, or grandparents entitled to priority for adoption
7 consideration under s. 63.0425, actual custodians of the
8 child, and any other person whose participation may be in the
9 best interest of the child. Participants may be granted leave
10 by the court to be heard without the necessity of filing a
11 motion to intervene.

12 Section 39. Subsection (41) of section 984.03, Florida
13 Statutes, 1998 Supplement, is amended to read:

14 984.03 Definitions.--When used in this chapter, the
15 term:

16 (41) "Parent" means a woman who gives birth to a child
17 and a man whose consent to the adoption of the child would be
18 required under s. 63.062(1)~~(b)~~. If a child has been legally
19 adopted, the term "parent" means the adoptive mother or father
20 of the child. The term does not include an individual whose
21 parental relationship to the child has been legally
22 terminated, or an alleged or prospective parent, unless the
23 parental status falls within the terms of either s. 39.503(1)
24 or s. 63.062(1)~~(b)~~.

25 Section 40. Subsection (42) of section 985.03, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 985.03 Definitions.--When used in this chapter, the
28 term:

29 (42) "Parent" means a woman who gives birth to a child
30 and a man whose consent to the adoption of the child would be
31 required under s. 63.062(1)~~(b)~~. If a child has been legally

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1 adopted, the term "parent" means the adoptive mother or father
2 of the child. The term does not include an individual whose
3 parental relationship to the child has been legally
4 terminated, or an alleged or prospective parent, unless the
5 parental status falls within the terms of either s. 39.503(1)
6 or s. 63.062(1)(b).

7 Section 41. Section 63.072, Florida Statutes, is
8 repealed.

9 Section 42. Any petition for adoption filed before
10 October 1, 1999, shall be governed by the law in effect at the
11 time the petition was filed.

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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 On page 6, line 29, after the first semicolon

17

18 insert:

19 amending ss. 39.703, 39.802, 39.806, and
20 39.811, F.S., relating to the petition and
21 grounds for terminating parental rights and
22 powers of disposition; removing provisions
23 authorizing licensed child-placing agencies to
24 file actions to terminate parental rights;
25 amending s. 39.812, F.S.; providing additional
26 requirements for a petition for adoption;
27 prohibiting filing such petition until the
28 order terminating parental rights is final;
29 amending s. 63.022, F.S.; revising legislative
30 intent with respect to adoptions; amending s.
31 63.032, F.S.; revising definitions; defining

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1 "adoption entity," "legal custody," "parent,"
2 and "relative"; creating s. 63.037, F.S.;
3 exempting certain provisions from adoption
4 proceedings initiated under ch. 39, F.S.;
5 creating s. 63.039, F.S.; providing duties of
6 an adoption entity to prospective adoptive
7 parents; providing sanctions and an award of
8 attorney's fees under certain circumstances;
9 amending s. 63.0425, F.S.; conforming
10 provisions relating to grandparent's right to
11 adopt; amending s. 63.052, F.S.; providing for
12 placement of a minor pending adoption;
13 specifying the jurisdiction of the court over a
14 minor placed for adoption; amending s. 63.062,
15 F.S.; specifying additional persons who must
16 consent to an adoption, execute an affidavit of
17 nonpaternity, or receive notice of proceedings
18 to terminate parental rights; providing for
19 form and content of affidavit of nonpaternity;
20 providing for notice of the right to select a
21 witness; providing a form for waiver of venue;
22 amending s. 63.082, F.S.; revising requirements
23 and form for executing a consent to an
24 adoption; making such requirements applicable
25 to affidavit of nonpaternity; providing a
26 revocation period and requirements for
27 withdrawing consent; providing additional
28 disclosure requirements; revising requisite
29 history form to include social history;
30 amending s. 63.085, F.S.; specifying
31 information that must be disclosed to persons

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1 seeking to adopt a minor and to the parents;
2 creating s. 63.087, F.S.; requiring that a
3 separate proceeding be conducted by the court
4 to determine whether a parent's parental rights
5 should be terminated; providing for rules,
6 jurisdiction, and venue for such proceedings;
7 providing requirements for the petition and
8 hearing; creating s. 63.088, F.S.; providing
9 diligent search and court inquiry requirements
10 for identifying and locating a person who is
11 required to consent to an adoption or receive
12 notice of proceedings to terminate parental
13 rights; providing notice requirements including
14 notice by constructive service; providing that
15 failure to respond or appear constitutes
16 grounds to terminate parental rights pending
17 adoption; creating s. 63.089, F.S.; providing
18 hearing procedures for proceedings to terminate
19 parental rights pending adoption; specifying
20 grounds upon which parental rights may be
21 terminated; providing for finding of
22 abandonment; providing for dismissal of
23 petition procedures; providing for
24 post-judgment relief; providing for
25 confidentiality of records; amending s. 63.092,
26 F.S.; providing requirements in an at-risk
27 placement before termination of parental
28 rights; amending s. 63.097, F.S.; revising fee
29 requirements to provide for allowable and
30 prohibited fees and costs; amending s. 63.102,
31 F.S.; revising requirements for filing a

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1 petition for adoption; providing requirements
2 for prior approval of fees and costs; revising
3 requirements for declaratory statement as to
4 adoption contract; amending s. 63.112, F.S.;
5 revising requirements for form and content of a
6 petition for adoption; amending s. 63.122,
7 F.S.; revising the time requirements for
8 hearing a petition for adoption; amending s.
9 63.125, F.S.; conforming provisions relating to
10 the final home investigation; amending s.
11 63.132, F.S.; revising requirements for
12 affidavit of expenses and receipts; requiring
13 separate court order approving fees, costs, and
14 expenses; amending s. 63.142, F.S.; specifying
15 circumstances under which a judgment
16 terminating parental rights pending adoption is
17 voidable; providing for an evidentiary hearing
18 to determine the minor's placement following a
19 motion to void such a judgment; amending s.
20 63.162, F.S.; conforming provisions relating to
21 confidential records of adoption proceedings;
22 amending s. 63.165, F.S.; requiring that a copy
23 of the certified statement of final decree of
24 adoption be included in the state registry of
25 adoption information; requiring that the
26 Department of Children and Family Services
27 maintain such information for a specified
28 period; amending s. 63.182, F.S.; providing a
29 1-year statute of repose for actions to set
30 aside or vacate a judgment of adoption or a
31 judgment terminating parental rights pending

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1 adoption; providing a 2-year statute of repose
2 for an action in fraud to set aside or vacate a
3 judgment of adoption or a judgment terminating
4 parenting rights; amending s. 63.202, F.S.;
5 conforming provisions relating to agencies
6 authorized to place minors for adoption;
7 amending s. 63.207, F.S.; revising provisions
8 that limit the placement of a minor in another
9 state for adoption; amending s. 63.212, F.S.;
10 revising provisions relating to prohibitions
11 and penalties with respect to adoptions;
12 amending s. 63.219, F.S.; conforming provisions
13 relating to sanctions; amending s. 63.301,
14 F.S.; revising membership of an advisory
15 council on adoption to include a child-caring
16 agency registered under s. 409.176, F.S.;
17 amending ss. 39.01, 984.03, and 985.03, F.S.;
18 correcting cross-references; repealing s.
19 63.072, F.S., relating to persons who may waive
20 required consent to an adoption; requiring that
21 a petition for adoption be governed by the law
22 in effect at the time the petition is filed;
23 providing for severability;

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