

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:

**Senate Amendment (with title amendment)**

On page 13, between lines 6 and 7,

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 proceedings to terminate parental rights, the department ~~or~~

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

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

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1 other time.

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

4 39.802 Petition for termination of parental rights;  
5 filing; elements.--

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

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

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

20 39.806 Grounds for termination of parental rights.--

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

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

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

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

8           (b) When the identity or location of the parent or  
9 parents is unknown and cannot be ascertained by diligent  
10 search within 90 days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 39.811 Powers of disposition; order of disposition.--

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

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

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

23           39.812 Postdisposition relief; petition for  
24 adoption.--

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

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1 become a party to any proceeding for the legal adoption of the  
2 child and appear in any court where the adoption proceeding is  
3 pending and consent to the adoption, ~~and~~ and that consent alone  
4 shall in all cases be sufficient.

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

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

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



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

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

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

22 63.022 Legislative intent.--

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

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

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

31 (b) The required persons consent to the adoption or

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1 the parent-child relationship is terminated by judgment of the  
2 court.

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

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

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

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

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

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

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

28 (j) The records of all proceedings concerning custody  
29 and adoption of a minor children are confidential and exempt  
30 from ~~the provisions of~~ s. 119.07(1), except as provided in s.  
31 63.162.

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

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

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

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

18           63.032 Definitions.--As used in this chapter act,  
19 ~~unless the context otherwise requires~~, the term:

20           (1)(14) "Abandoned" means a situation in which the  
21 parent or person having legal custody ~~legal custodian~~ of a  
22 child, while being able, makes no provision for the child's  
23 support and makes no effort to communicate with the child,  
24 which situation is sufficient to evince a willful rejection of  
25 parental obligations. If, in the opinion of the court, the  
26 efforts of such parent or person having legal custody of the  
27 child ~~legal custodian~~ to support and communicate with the  
28 child are only marginal efforts that do not evince a settled  
29 purpose to assume all parental duties, the court may declare  
30 the child to be abandoned. In making this decision, the court  
31 may consider the conduct of a father towards the child's

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1 mother during her pregnancy.

2 (2)~~(10)~~ "Adoption" means the act of creating the legal  
3 relationship between parent and child where it did not exist,  
4 thereby declaring the child to be legally the child of the  
5 adoptive parents and their heir at law and entitled to all the  
6 rights and privileges and subject to all the obligations of a  
7 child born to such adoptive parents in lawful wedlock.

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

11 (4)~~(5)~~ "Adult" means a person who is not a minor.

12 (5)~~(7)~~ "Agency" means any child-placing agency  
13 licensed by the department pursuant to s. 63.202 to place  
14 minors for adoption.

15 (6)~~(2)~~ "Child" means a son or daughter, whether by  
16 birth or adoption.

17 (7)~~(3)~~ "Court" means any circuit court of this state  
18 and, when the context requires, the court of any state that is  
19 empowered to grant petitions for adoption.

20 (8)~~(1)~~ "Department" means the Department of Children  
21 and Family Services.

22 (9)~~(8)~~ "Intermediary" means an attorney ~~or physician~~  
23 who is licensed or authorized to practice in this state and  
24 who is placing or intends to place a child for adoption or,  
25 for the purpose of adoptive placements of children from out of  
26 state with citizens of this state, a child-placing agency  
27 licensed in another state that is qualified by the department.

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

30 (11)~~(4)~~ "Minor" means a person under the age of 18  
31 years.

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

3           (13)(6) "Person" includes a natural person,  
4 corporation, government or governmental subdivision or agency,  
5 business trust, estate, trust, partnership, or association,  
6 and any other legal entity.

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

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

14           (16)(13) "Primarily lives and works outside Florida"  
15 means anyone who does not meet the definition of "primary  
16 residence and place of employment in Florida."

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

25           (18)(11) "Suitability of the intended placement"  
26 includes the fitness of the intended placement, with primary  
27 consideration being given to the welfare of the child; the  
28 fitness and capabilities of the adoptive parent or parents to  
29 function as parent or parents for a particular child; any  
30 familial relationship between the child and the prospective  
31 placement;and the compatibility of the child with the home in

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1 which the child is intended to be placed.

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

4 63.037 Proceedings applicable to cases resulting from  
5 a termination of parental rights under chapter 39.--A case in  
6 which a minor becomes available for adoption after the  
7 parental rights of each parent have been terminated by a  
8 judgment entered pursuant to chapter 39 shall be governed by  
9 s. 39.812 and this chapter. Adoption proceedings initiated  
10 under chapter 39 are exempt from the following provisions of  
11 this chapter: disclosure requirements for the adoption entity  
12 provided in s. 63.085; general provisions governing  
13 termination of parental rights pending adoption provided in s.  
14 63.087; notice and service provisions governing termination of  
15 parental rights pending adoption provided in s. 63.088; and  
16 procedures for terminating parental rights pending adoption  
17 provided in s. 63.089.

18 Section 13. Section 63.039, Florida Statutes, is  
19 created to read:

20 63.039 Duty of adoption entity to prospective adoptive  
21 parents; sanctions.--

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

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

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

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

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

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

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

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

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

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

29           (2) An adoption entity that materially fails to meet a  
30 duty specified in subsection (1) may be liable to the  
31 prospective adoptive parents for all sums paid by the

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1 prospective adoptive parents or on their behalf in  
2 anticipation of or in connection with an adoption upon a  
3 showing by the moving party that actual injury was caused by  
4 the material failure.

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

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

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



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1 section against an agency. The order must be provided within  
2 30 days after the date that the order was issued.

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

5 63.0425 Grandparent's right to adopt.--

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

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

15 63.052 Guardians designated; proof of commitment.--

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

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

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

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

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

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

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

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

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

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

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

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

13 63.062 Persons required to consent to adoption;  
 14 affidavit of nonpaternity; waiver of venue.--

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

21 (a) The mother of the minor.

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

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

25 2. The minor is his child by adoption; ~~or~~

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

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

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

4           1.4. He Has acknowledged in writing, signed in the  
5 presence of a competent witness, that he is the father of the  
6 minor and has filed such acknowledgment with the Office of  
7 Vital Statistics of the Department of Health;—

8           2.5. He Has provided, or has attempted to provide, the  
9 child or the mother during her pregnancy with support in a  
10 repetitive, customary manner; or—

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

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

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

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

29           (3) A person who signs a consent to adoption or an  
30 affidavit of nonpaternity must be given reasonable notice of  
31 his or her right to select a person who does not have an

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1 employment, professional, or personal relationship with the  
2 adoption entity or the prospective adoptive parents to be  
3 present when the consent to adoption or affidavit of  
4 nonpaternity is executed and to sign the consent or affidavit  
5 as a witness.

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

8  
9 AFFIDAVIT OF NONPATERNITY

10  
11 1. I have personal knowledge of the facts  
12 stated in this affidavit.

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

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

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

30 5. I have no interest in assuming the  
31 responsibilities of parenthood for this child.

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

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

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

13  
14          I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO  
15          TERMINATE PARENTAL RIGHTS OR FINALIZE AN  
16          ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

17  
18          ~~(5)(2)~~ The court may require that consent be executed  
19 by:

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

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

25          ~~(6)(3)~~ The petitioner must make good faith and  
26 diligent efforts as provided under s. 63.088 to notify, and  
27 obtain written consent from, the persons required to consent  
28 to adoption under this section ~~within 60 days after filing the~~  
29 ~~petition. These efforts may include conducting interviews and~~  
30 ~~record searches to locate those persons, including verifying~~  
31 ~~information related to location of residence, employment,~~

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

3 ~~(7)(4)~~ If parental rights to the minor have previously  
 4 been terminated, a licensed child-placing agency, a  
 5 child-caring agency registered under s. 409.176, or the  
 6 department with which the minor ~~child~~ has been placed for  
 7 subsequent adoption may provide consent to the adoption. In  
 8 such case, no other consent is required.

9 ~~(8)(5)~~ A petition to adopt an adult may be granted if:

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

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

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

24  
 25 WAIVER OF VENUE  
 26

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



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1           Terminate Parental Rights may be filed by  
2           ...(adoption entity)... in ...(county name)...  
3           county, Florida.

4  
5           I understand that, after signing this waiver, I  
6           may object to the county where the proceedings  
7           to terminate my parental rights will be held by  
8           appearing at the hearing or by filing a written  
9           objection, on the attached form, with the Clerk  
10           of the Court who is located at ...(address of  
11           court).... If I later object to this transfer  
12           of venue, the case will be transferred to a  
13           county in Florida in which I reside. If I have  
14           no such residence, the case will be transferred  
15           to a county where another parent resides or  
16           where at least one parent resided at the time  
17           of signing a consent or affidavit of  
18           nonpaternity.

19  
20           (b)1. The waiver of venue must be a separate document  
21           containing no consents, disclosures, or other information  
22           unrelated to venue.

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

30           3. This form must include a notice that if an adoption  
31           entity knows that a parent whose rights will be terminated

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

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

9 63.082 Execution of consent to adoption or affidavit  
10 of nonpaternity; family social and medical history; withdrawal  
11 of consent.--

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

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

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

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

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

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

28 (3)(a) The department must provide a consent form and  
29 a family social and medical history form to an adoption entity  
30 that intermediary who intends to place a child for adoption.  
31 ~~The~~ Forms containing, at a minimum, the same information as

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

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

27 (c) If any required consent or social and medical  
28 history is unavailable because the person whose consent is  
29 required cannot be located or identified, the petition to  
30 terminate parental rights pending adoption must be accompanied  
31 by the affidavit of diligent search required under s. 63.088.

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

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

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

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

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

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

20  
 21 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE  
 22 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,  
 23 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE  
 24 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE  
 25 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS  
 26 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST  
 27 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED  
 28 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS  
 29 OR WITNESSES YOU SELECTED, IF ANY.

30  
 31 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU

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

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

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

11  
12          TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT  
13          OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE  
14          PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,  
15          IN WRITING BY CERTIFIED UNITED STATES MAIL,  
16          RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY  
17          YOU SHOULD NOTIFY IS: ...(name of adoption  
18          entity)..., ...(address of adoption entity)...,  
19          ...(phone number of adoption entity)....

20  
21          ONCE THE REVOCATION PERIOD IS OVER, OR THE  
22          CHILD HAS BEEN PLACED WITH THE PROSPECTIVE  
23          ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU  
24          MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN  
25          PROVE IN COURT THAT CONSENT WAS OBTAINED BY  
26          FRAUD OR UNDER DURESS.

27  
28          (5) Before any consent to adoption or affidavit of  
29          nonpaternity is executed by a parent, but after the birth of  
30          the minor, all requirements of disclosure under s. 63.085 must  
31          be met.



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

15           (7)(5)(a) A consent that is being withdrawn under  
16 paragraph (4)(c) may be withdrawn at any time prior to the  
17 minor's placement with the prospective adoptive parents or by  
18 notifying the adoption entity in writing by certified United  
19 States mail, return receipt requested, not later than 3  
20 business days after execution of the consent or 1 business day  
21 after the date of the birth mother's discharge from a licensed  
22 hospital or birth center, whichever occurs later. As used in  
23 this subsection, the term "business day" means any day on  
24 which the United States Postal Service accepts certified mail  
25 for delivery.

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

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1 in written findings that placement of the minor with the  
2 person withdrawing consent may endanger the minor.

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

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

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

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

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

30 Section 18. Section 63.085, Florida Statutes, is  
31 amended to read:



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1           obligate anyone to sign a consent or ultimately  
2           place a minor for adoption.

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

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

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

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

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

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

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

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

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

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

28            10. Under section 63.088, Florida  
29        Statutes, specific and extensive efforts are  
30        required by law to attempt to obtain the  
31        consents required under section 63.062, Florida

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

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

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

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

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

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

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

28       16. Each parent and prospective adoptive  
29       parent is entitled to independent legal advice  
30       and representation. Attorney information may be  
31       obtained from the yellow pages, The Florida



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1           Bar's lawyer referral service, and local legal  
2           aid offices and bar associations.

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

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

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

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

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

11           a. Any fee or expense that constitutes  
12           payment for locating a minor for adoption.

13           b. Any lump-sum payment to the entity  
14           which is nonrefundable directly to the payor or  
15           which is not itemized on the affidavit.

16           c. Any fee on the affidavit which does  
17           not specify the service that was provided and  
18           for which the fee is being charged, such as a  
19           fee for facilitation or acquisition.

20  
21       The court may reduce amounts charged or refund  
22       amounts that have been paid if it finds that  
23       these amounts were more than what was  
24       reasonable or allowed under the law.

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

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

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

16  
17          (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity  
18          must obtain a written statement acknowledging receipt of the  
19          disclosure required under subsection (1) and signed by the  
20          persons receiving the disclosure or, if it is not possible to  
21          obtain such an acknowledgment, the adoption entity must  
22          execute an affidavit stating why an acknowledgment could not  
23          be obtained. If the disclosure was delivered by certified  
24          United States mail, return receipt requested, a return receipt  
25          signed by the person from whom acknowledgment is required is  
26          sufficient to meet the requirements of this subsection. A copy  
27          of the acknowledgment of receipt of the disclosure must be  
28          provided to the person signing it. A copy of the  
29          acknowledgment or affidavit executed by the adoption entity in  
30          lieu of the acknowledgment must be maintained in the file of  
31          the adoption entity. The original acknowledgment or affidavit

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

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

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

12 63.087 Proceeding to terminate parental rights pending  
 13 adoption; general provisions.--

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

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

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

31 (4) VENUE.--

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

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

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

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

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

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

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

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

31           2. At least one parent resided at the time of

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1 execution of a consent or affidavit of nonpaternity; or

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

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

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

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

20 (6) PETITION.--

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

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

31 (c) The petition must be entitled: "In the Matter of

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1 the Proposed Adoption of a Minor Child."

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

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

14 (f) The petition must include:

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

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

31 3. Unless a consent to adoption or affidavit of

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

5 a. The minor's mother;

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

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

10  
11 If a required name or address is not known, the petition must  
12 so state.

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

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

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

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

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



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1 adoption is required under s. 63.062 must:

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

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

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

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

12 63.088 Proceeding to terminate parental rights pending  
13 adoption; notice and service; diligent search.--

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

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



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

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

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

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

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

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

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

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

24  
25 The information required under this subsection may be provided  
26 to the court in the form of a sworn affidavit by a person  
27 having personal knowledge of the facts, addressing each  
28 inquiry enumerated in this subsection, except that, if the  
29 inquiry identifies a father under paragraph (a) or paragraph  
30 (b), the inquiry shall not continue further. The inquiry  
31 required under this subsection may be conducted before the

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1 birth of the minor.

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

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

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

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

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

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

31 Relatives include, but are not limited to, parents, brothers,

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1 sisters, aunts, uncles, cousins, nieces, nephews,  
2 grandparents, great-grandparents, former or current in-laws,  
3 stepparents, and stepchildren;

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 the notice must so state.

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

4 63.089 Proceeding to terminate parental rights pending  
5 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

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

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

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

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

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

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

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

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

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

29 (d) The petition contains all information required  
30 under s. 63.087 and all affidavits of inquiry, diligent  
31 search, and service required under s. 63.088 have been

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1 obtained and filed with the court.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

31           4. Whether the person alleged to have abandoned the

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

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

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

18 (b) The child has been abandoned when the parent of a  
19 child is incarcerated on or after October 1, 1999, in a state  
20 or federal correctional institution and:

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

25 2. The incarcerated parent has been determined by the  
26 court to be a violent career criminal as defined in s.  
27 775.084, a habitual violent felony offender as defined in s.  
28 775.084, convicted of child abuse as defined in s. 827.03, or  
29 a sexual predator as defined in s. 775.21; has been convicted  
30 of first degree or second degree murder in violation of s.  
31 782.04 or a sexual battery that constitutes a capital, life,

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

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

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

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

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1 terminated based upon a consent that the court finds has been  
2 timely withdrawn under s. 63.082 or a consent to adoption or  
3 affidavit of nonpaternity that the court finds was obtained by  
4 fraud or under duress. The court must enter an order based  
5 upon written findings providing for the placement of the  
6 minor. The court may order scientific testing to determine the  
7 paternity of the minor at any time during which the court has  
8 jurisdiction over the minor. Further proceedings, if any,  
9 regarding the minor must be brought in a separate custody  
10 action under chapter 61, a dependency action under chapter 39,  
11 or a paternity action under chapter 742.

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

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

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

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

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

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

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

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

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

30 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and  
31 records pertaining to a petition to terminate parental rights

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

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

8 63.092 Report to the court of intended placement by an  
9 adoption entity; at-risk placement intermediary; preliminary  
10 study.--

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

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

27 ~~(3)~~(2) PRELIMINARY HOME STUDY.--Before placing the  
28 minor in the intended adoptive home, a preliminary home study  
29 must be performed by a licensed child-placing agency, a  
30 licensed professional, or agency described in s. 61.20(2),  
31 unless the petitioner is a stepparent, a spouse of the ~~birth~~

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

- 22 (a) An interview with the intended adoptive parents;  
23 (b) Records checks of the department's central abuse  
24 registry and criminal records correspondence checks pursuant  
25 to s. 435.045 through the Department of Law Enforcement on the  
26 intended adoptive parents;  
27 (c) An assessment of the physical environment of the  
28 home;  
29 (d) A determination of the financial security of the  
30 intended adoptive parents;  
31 (e) Documentation of counseling and education of the

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1 intended adoptive parents on adoptive parenting;

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

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

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

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

12

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

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

28 63.097 Fees.--

29 (1) When the adoption entity is an agency, fees may be  
30 assessed if they are approved by the department within the  
31 process of licensing the agency and if they are for:



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

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

10 3. A reasonable hourly fee for counseling services  
11 provided to a parent or a prospective adoptive parent by a  
12 psychologist licensed under chapter 490 or a clinical social  
13 worker, marriage and family therapist, or mental health  
14 counselor licensed under chapter 491, or a counselor who is  
15 employed by an adoption entity accredited by the Council on  
16 Accreditation of Services for Children and Families to provide  
17 pregnancy counseling and supportive services.

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

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

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

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

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

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

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

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

22           ~~(6)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--Unless~~  
23 ~~otherwise indicated in this section, when an adoption entity~~  
24 ~~intermediary uses the services of a licensed child-placing~~  
25 ~~agency, a professional, any other person or agency pursuant to~~  
26 ~~s. 63.092, or, if necessary, the department, the person~~  
27 ~~seeking to adopt the child must pay the licensed child-placing~~  
28 ~~agency, professional, other person or agency, or the~~  
29 ~~department an amount equal to the cost of all services~~  
30 ~~performed, including, but not limited to, the cost of~~  
31 ~~conducting the preliminary home study, counseling, and the~~

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

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

6 63.102 Filing of petition for adoption or declaratory  
7 statement; venue; proceeding for approval of fees and costs.--

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

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

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1 does not apply until a final judgment is entered on the  
2 adoption.

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

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

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

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

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

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

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

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

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

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

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

3           63.112 Petition for adoption; description; report or  
4 recommendation, exceptions; mailing.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21  
22 ~~The court may waive the requirement for an interview with the~~  
23 ~~birth mother or birth father in the investigation for good~~  
24 ~~cause shown.~~

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

29           (4) The clerk of the court shall mail a copy of the  
30 petition within 24 hours after filing, and execute a  
31 certificate of mailing, to the adoption entity ~~department and~~



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1 ~~the agency~~ placing the minor, if any.

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

4 63.122 Notice of hearing on petition.--

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

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

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

25 (4) Notice of the hearing must be given by the  
26 petitioner to the adoption entity that places the minor.<sup>+</sup>

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

29 ~~(b) The intermediary.~~

30 ~~(c) Any person whose consent to the adoption is~~  
31 ~~required by this act who has not consented, unless such~~

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1 ~~person's consent is excused by the court.~~

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

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

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

11 63.125 Final home investigation.--

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

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

31 (3) The report of the investigation must contain an

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1 evaluation of the placement with a recommendation on the  
2 granting of the petition for adoption and any other  
3 information the court requires regarding the petitioner or the  
4 minor.

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

11 (5) The final home investigation must include:

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

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

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

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

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

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

26 63.132 Affidavit Report of expenses ~~expenditures~~ and  
27 receipts.--

28 (1) At least 10 days before the hearing on the  
29 petition for adoption, the prospective adoptive parent  
30 ~~petitioner~~ and any adoption entity ~~intermediary~~ must file two  
31 copies of an affidavit under this section.

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

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

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

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

22           1. ~~(a)~~ The birth of the minor.

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

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

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

30           5. ~~(e)~~ The services relating to the adoption or to the  
31 placement of the minor for adoption that were received by or

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1 on behalf of the petitioner, the adoption entity intermediary,  
 2 either ~~natural~~ parent, the minor, or any other person.

3  
 4 The affidavit must state whether any of these expenses were  
 5 paid for by collateral sources, including, but not limited to,  
 6 health insurance, Medicaid, Medicare, or public assistance.

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

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

15 (a) Contrary to this chapter;

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

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

21 ~~(4)(3)~~ This section does not apply to an adoption by a  
 22 stepparent whose spouse is a ~~natural or adoptive~~ parent of the  
 23 minor child.

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

26 63.142 Hearing; judgment of adoption.--

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

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

31 (b) The presence of either is excused by the court for

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1 good cause.

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

6 (3) DISMISSAL.--

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

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

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

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

31 (b) Except upon good cause shown, no later than 30

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1 days after the filing of a motion under this subsection, the  
2 court must conduct a preliminary hearing to determine what  
3 contact, if any, shall be permitted between a parent and the  
4 child pending resolution of the motion. Such contact shall be  
5 considered only if it is requested by a parent who has  
6 appeared at the hearing. If the court orders contact between a  
7 parent and child, the order must be issued in writing as  
8 expeditiously as possible and must state with specificity any  
9 provisions regarding contact with persons other than those  
10 with whom the child resides.

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

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

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

29 63.162 Hearings and records in adoption proceedings;  
30 confidential nature.--

31 (2) All papers and records pertaining to the adoption,

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

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

30 63.165 State registry of adoption information; duty to  
31 inform and explain.--Notwithstanding any other law to the



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

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

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1 release information by notifying the department in writing.

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

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

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

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

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

28 (2) An action or proceeding of any kind to vacate, set  
29 aside, or otherwise nullify a judgment of adoption or an  
30 underlying judgment terminating parental rights on grounds of  
31 fraud shall in no event be filed more than 2 years after entry

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1 of the judgment terminating parental rights.

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

4 63.202 Authority to license; adoption of rules.--

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

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

10 63.207 Out-of-state placement.--

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

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

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

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

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

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

17 Section 35. Section 63.212, Florida Statutes, is  
18 amended to read:

19 63.212 Prohibited acts; penalties for violation;  
20 preplanned adoption agreement.--

21 (1) It is unlawful for any person:

22 (a) ~~Except the department, an intermediary, or an~~  
23 ~~agency,~~To place or attempt to place a minor child for  
24 adoption with a person who primarily lives and works outside  
25 this state unless the minor child is placed with a relative  
26 within the third degree or with a stepparent. ~~An intermediary~~  
27 ~~may place or attempt to place a special needs child for~~  
28 ~~adoption with a person who primarily lives and works outside~~  
29 ~~this state only if the intermediary has a declaratory~~  
30 ~~statement from the court establishing the fees to be paid.~~  
31 This requirement does not apply if the minor child is placed

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1 by an adoption entity in accordance with s. 63.207 ~~with a~~  
2 ~~relative within the third degree or with a stepparent.~~

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

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

24 ~~(c)(d) To sell or surrender, or to arrange for the~~  
25 ~~sale or surrender of, a minor child to another person for~~  
26 ~~money or anything of value or to receive such minor child for~~  
27 ~~such payment or thing of value. If a minor child is being~~  
28 ~~adopted by a relative within the third degree or by a~~  
29 ~~stepparent, or is being adopted through an adoption entity,~~  
30 ~~this paragraph does not prohibit the Department of Children~~  
31 ~~and Family Services, an agency, or an intermediary, nothing~~

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1 ~~herein shall be construed as prohibiting~~ the person who is  
2 contemplating adopting the child from paying, under ss. 63.097  
3 and 63.132, the actual prenatal care and living expenses of  
4 the mother of the child to be adopted, or ~~nor~~ from paying,  
5 under ss. 63.097 and 63.132, the actual living and medical  
6 expenses of such mother for a reasonable time, not to exceed 6  
7 weeks, if medical needs require such support, after the birth  
8 of the minor child.

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

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

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

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

30 ~~(h)~~(i) To contract for the purchase, sale, or transfer  
31 of custody or parental rights in connection with any child, ~~or~~

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

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

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

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

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

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

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

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

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

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



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1 to place her child for adoption within 7 days after birth.

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

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

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

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

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

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

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

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

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1 arrangement.

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

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

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

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

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

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

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

31           f. "Parties" means the intended father and intended

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1 mother, the volunteer mother and her husband, if she has a  
2 husband, who are all parties to the preplanned adoption  
3 agreement.

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

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

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

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

- 28 1. Knowingly provide false information;  
29 2. Knowingly withhold material information; or  
30 3. For a parent, with the intent to defraud, to accept  
31 benefits related to the same pregnancy from more than one

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1 adoption entity without disclosing that fact to each entity.

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

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

15 (3)(2) This section does not ~~Nothing herein shall be~~  
16 ~~construed to prohibit an adoption entity a licensed~~  
17 ~~child-placing agency from charging fees permitted under this~~  
18 ~~chapter and reasonably commensurate to the services provided.~~

19 (4)(3) It is unlawful for any adoption entity  
20 ~~intermediary~~ to fail to report to the court, prior to  
21 placement, the intended placement of a minor child for  
22 purposes of adoption with any person not a stepparent or a  
23 relative within the third degree, if the adoption entity  
24 ~~intermediary~~ participates in such intended placement.

25 (5)(4) It is unlawful for any adoption entity  
26 ~~intermediary~~ to charge any fee except those fees permitted  
27 ~~under s. 63.097 and approved under s. 63.102 over \$1,000 and~~  
28 ~~those costs as set out in paragraph (1)(d) over \$2,500, other~~  
29 ~~than for actual documented medical costs, court costs, and~~  
30 ~~hospital costs unless such fee is approved by the court prior~~  
31 ~~to the assessment of the fee by the intermediary and upon a~~

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1 ~~showing of justification for the larger fee.~~

2       ~~(6)(5)~~ It is unlawful for any adoption entity  
 3 ~~intermediary~~ to counsel a birth mother to leave the state for  
 4 the purpose of giving birth to a child outside the state in  
 5 order to secure a fee in excess of that permitted under s.  
 6 63.097 when it is the intention that the child be placed for  
 7 adoption outside the state.

8       ~~(7)(6)~~ It is unlawful for any adoption entity  
 9 ~~intermediary~~ to obtain a preliminary home study or final home  
 10 investigation and fail to disclose the existence of the study  
 11 or investigation to the court.

12       ~~(8)(7)~~ Unless otherwise indicated, a person who  
 13 violates any provision of this section, excluding paragraph  
 14 (1)(g)(h), commits is guilty of a felony of the third degree,  
 15 punishable as provided in s. 775.082, s. 775.083, or s.  
 16 775.084. A person who violates paragraph (1)(g)(h) commits is  
 17 ~~guilty of~~ a misdemeanor of the second degree, punishable as  
 18 provided in s. 775.083; and each day of continuing violation  
 19 shall be considered a separate offense.

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

22       63.219 Sanctions.--Upon a finding by the court that an  
 23 adoption entity intermediary or agency has violated any  
 24 provision of this chapter, the court is authorized to prohibit  
 25 the adoption entity intermediary or agency from placing a  
 26 minor for adoption in the future.

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

30       63.301 Advisory council on adoption.--

31       (1) There is created within the Department of Children

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1 and Family Services an advisory council on adoption. The  
 2 council shall consist of 17 members to be appointed by the  
 3 Secretary of Children and Family Services as follows:

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

8  
 9 All members shall be appointed to serve 2-year terms.

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

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

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

20 39.01 Definitions.--When used in this chapter, unless  
 21 the context otherwise requires:

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

31 (50) "Participant," for purposes of a shelter

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

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

13 984.03 Definitions.--When used in this chapter, the  
14 term:

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

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

26 985.03 Definitions.--When used in this chapter, the  
27 term:

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

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

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

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

11  
12

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

14 And the title is amended as follows:

15 On page 1, line 22, after the semicolon

16  
17

insert:

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



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1 and "relative"; creating s. 63.037, F.S.;

2 exempting certain provisions from adoption

3 proceedings initiated under ch. 39, F.S.;

4 creating s. 63.039, F.S.; providing duties of

5 an adoption entity to prospective adoptive

6 parents; providing sanctions and an award of

7 attorney's fees under certain circumstances;

8 amending s. 63.0425, F.S.; conforming

9 provisions relating to grandparent's right to

10 adopt; amending s. 63.052, F.S.; providing for

11 placement of a minor pending adoption;

12 specifying the jurisdiction of the court over a

13 minor placed for adoption; amending s. 63.062,

14 F.S.; specifying additional persons who must

15 consent to an adoption, execute an affidavit of

16 nonpaternity, or receive notice of proceedings

17 to terminate parental rights; providing for

18 form and content of affidavit of nonpaternity;

19 providing for notice of the right to select a

20 witness; providing a form for waiver of venue;

21 amending s. 63.082, F.S.; revising requirements

22 and form for executing a consent to an

23 adoption; making such requirements applicable

24 to affidavit of nonpaternity; providing a

25 revocation period and requirements for

26 withdrawing consent; providing additional

27 disclosure requirements; revising requisite

28 history form to include social history;

29 amending s. 63.085, F.S.; specifying

30 information that must be disclosed to persons

31 seeking to adopt a minor and to the parents;

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

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

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

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