

By the Committee on Family Law & Children and
Representatives Byrd and Roberts

1 A bill to be entitled
2 An act relating to adoption; amending ss.
3 39.703, 39.802, 39.806, and 39.811, F.S.,
4 relating to the petition and grounds for
5 terminating parental rights and powers of
6 disposition; removing provisions authorizing
7 licensed child-placing agencies to file actions
8 to terminate parental rights; amending s.
9 39.812, F.S.; providing additional requirements
10 for a petition for adoption; prohibiting filing
11 such petition until the order terminating
12 parental rights is final; amending s. 63.022,
13 F.S.; revising legislative intent with respect
14 to adoptions; amending s. 63.032, F.S.;
15 revising definitions; defining "adoption
16 entity"; creating s. 63.037, F.S.; exempting
17 adoption proceedings that result from a
18 termination of parental rights under ch. 39,
19 F.S., from certain provisions of ch. 63, F.S.;
20 creating s. 63.038, F.S.; providing criminal
21 penalties for committing certain fraudulent
22 acts; creating s. 63.039, F.S.; providing duty
23 of an adoption entity to prospective adoptive
24 parents; providing sanctions and an award of
25 attorney's fees under certain circumstances;
26 amending s. 63.0425, F.S.; conforming
27 provisions relating to grandparent's right to
28 adopt; amending s. 63.052, F.S.; providing for
29 placement of a minor pending adoption;
30 specifying the jurisdiction of the court over a
31 minor who has been placed for adoption;

1 amending s. 63.062, F.S.; specifying additional
2 persons who must consent to an adoption,
3 execute an affidavit of nonpaternity, or
4 receive notice of proceedings to terminate
5 parental rights; providing for notice of the
6 right to select a witness; permitting an
7 affidavit of nonpaternity under certain
8 circumstances; amending s. 63.082, F.S.;
9 revising requirements for executing a consent
10 to an adoption; providing time periods and
11 requirements for withdrawing consent; providing
12 additional disclosure requirements; amending s.
13 63.085, F.S.; specifying information that must
14 be disclosed to persons seeking to adopt a
15 minor and to the parents; creating s. 63.087,
16 F.S.; requiring that a separate proceeding be
17 conducted by the court to determine whether a
18 parent's parental rights should be terminated;
19 providing for rules, jurisdiction, and venue
20 for such proceedings; providing requirements
21 for the petition and hearing; creating s.
22 63.088, F.S.; providing requirements for
23 identifying and locating a person who is
24 required to consent to an adoption or receive
25 notice of proceedings to terminate parental
26 rights; providing notice requirements;
27 providing requirements for conducting a
28 diligent search for such person whose location
29 is unknown; requiring that an unlocated or
30 unidentified person be served notice by
31 constructive service; providing that failure to

1 respond or appear constitutes grounds to
2 terminate parental rights pending adoption;
3 creating s. 63.089, F.S.; providing procedures
4 for the proceeding to terminate parental rights
5 pending adoption; specifying the matters to be
6 determined; specifying grounds upon which
7 parental rights may be terminated; providing
8 for procedures following a judgment; providing
9 for records to be made part of the subsequent
10 adoption; amending s. 63.092, F.S.; providing
11 requirements to be met if a prospective
12 placement in an adoptive home is an at-risk
13 placement; amending s. 63.097, F.S.; revising
14 requirements for the court in approving
15 specified fees and costs; amending s. 63.102,
16 F.S.; revising requirements for filing a
17 petition for adoption; providing requirements
18 for prior approval of fees and costs; amending
19 s. 63.112, F.S.; revising requirements for the
20 information that must be included in a petition
21 for adoption; amending s. 63.122, F.S.;
22 revising the time requirements for hearing a
23 petition for adoption; amending s. 63.125,
24 F.S.; conforming provisions relating to the
25 final home investigation; amending s. 63.132,
26 F.S.; revising requirements for the report of
27 expenditures and receipts which is filed with
28 the court; amending s. 63.142, F.S.; specifying
29 circumstances under which a judgment
30 terminating parental rights pending adoption is
31 voidable; providing for an evidentiary hearing

1 to determine the minor's placement following a
2 motion to void such a judgment; amending s.
3 63.152, F.S.; requiring that the clerk of the
4 court mail a copy of a new birth record to the
5 state registry of adoption information;
6 amending s. 63.162, F.S.; conforming provisions
7 relating to confidential records of adoption
8 proceedings; amending s. 63.165, F.S.;
9 requiring that a copy of the certified
10 statement of final decree of adoption be
11 included in the state registry of adoption
12 information; requiring that the Department of
13 Children and Family Services maintain such
14 information for a specified period; amending s.
15 63.182, F.S.; requiring that an action to
16 vacate an order of adoption or an order
17 terminating parental rights pending adoption be
18 filed within a specified period after entry of
19 the order; amending s. 63.202, F.S.; conforming
20 provisions relating to agencies authorized to
21 place minors for adoption; amending s. 63.207,
22 F.S.; revising provisions that limit the
23 placement of a minor in another state for
24 adoption; amending s. 63.212, F.S.; revising
25 provisions relating to prohibitions and
26 penalties with respect to adoptions; amending
27 s. 63.219, F.S.; conforming provisions relating
28 to sanctions; amending s. 63.301, F.S.;
29 revising membership of an advisory council on
30 adoption; amending ss. 39.01, 984.03, and
31 985.03, F.S.; correcting cross references;

1 repealing s. 63.072, F.S., relating to persons
2 who may waive required consent to an adoption;
3 requiring that a petition for adoption be
4 governed by the law in effect at the time the
5 petition is filed; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 39.703, Florida Statutes, 1998
10 Supplement, is amended to read:

11 39.703 Initiation of termination of parental rights
12 proceedings.--

13 (1) If, in preparation for any judicial review hearing
14 under this chapter, it is the opinion of the social service
15 agency that the parents of the child have not complied with
16 their responsibilities as specified in the written case plan
17 although able to do so, the department ~~social service agency~~
18 shall state its intent to initiate proceedings to terminate
19 parental rights, unless the social service agency can
20 demonstrate to the court that such a recommendation would not
21 be in the child's best interests. If it is the intent of the
22 department ~~or licensed child-placing agency~~ to initiate
23 proceedings to terminate parental rights, the department ~~or~~
24 ~~licensed child-placing agency~~ shall file a petition for
25 termination of parental rights no later than 3 months after
26 the date of the previous judicial review hearing. If the
27 petition cannot be filed within 3 months, the department ~~or~~
28 ~~licensed child-placing agency~~ shall provide a written report
29 to the court outlining the reasons for delay, the progress
30 made in the termination of parental rights process, and the
31 anticipated date of completion of the process.

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

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

27 39.802 Petition for termination of parental rights;
28 filing; elements.--

29 (1) All proceedings seeking an adjudication to
30 terminate parental rights pursuant to this chapter must be
31 initiated by the filing of an original petition by the

1 department, the guardian ad litem, or ~~a licensed child-placing~~
2 ~~agency or by~~ any other person who has knowledge of the facts
3 alleged or is informed of them and believes that they are
4 true.

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

10 Section 3. Subsection (1) of section 39.806, Florida
11 Statutes, 1998 Supplement, is amended to read:

12 39.806 Grounds for termination of parental rights.--

13 (1) The department, the guardian ad litem, ~~a licensed~~
14 ~~child-placing agency,~~ or any person related to the child who
15 has knowledge of the facts alleged or who is informed of said
16 facts and believes that they are true, may petition for the
17 termination of parental rights under any of the following
18 circumstances:

19 (a) When the parent or parents voluntarily executed a
20 written surrender of the child and consented to the entry of
21 an order giving custody of the child to the department ~~or to a~~
22 ~~licensed child-placing agency~~ for subsequent adoption and the
23 department ~~or licensed child-placing agency~~ is willing to
24 accept custody of the child.

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

28 2. The surrender and consent may be withdrawn after
29 acceptance by the department ~~or licensed child-placing agency~~
30 only after a finding by the court that the surrender and
31 consent were obtained by fraud or duress.

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

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

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

15 1. The period of time for which the parent is expected
16 to be incarcerated will constitute a substantial portion of
17 the period of time before the child will attain the age of 18
18 years;

19 2. The incarcerated parent has been determined by the
20 court to be a violent career criminal as defined in s.
21 775.084, a habitual violent felony offender as defined in s.
22 775.084, or a sexual predator as defined in s. 775.21; has
23 been convicted of first degree or second degree murder in
24 violation of s. 782.04 or a sexual battery that constitutes a
25 capital, life, or first degree felony violation of s. 794.011;
26 or has been convicted of an offense in another jurisdiction
27 which is substantially similar to one of the offenses listed
28 in this paragraph. As used in this section, the term
29 "substantially similar offense" means any offense that is
30 substantially similar in elements and penalties to one of
31 those listed in this paragraph, and that is in violation of a

1 law of any other jurisdiction, whether that of another state,
2 the District of Columbia, the United States or any possession
3 or territory thereof, or any foreign jurisdiction; and

4 3. The court determines by clear and convincing
5 evidence that continuing the parental relationship with the
6 incarcerated parent would be harmful to the child and, for
7 this reason, that termination of the parental rights of the
8 incarcerated parent is in the best interest of the child.

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

25 (f) When the parent or parents engaged in egregious
26 conduct or had the opportunity and capability to prevent and
27 knowingly failed to prevent egregious conduct that threatens
28 the life, safety, or physical, mental, or emotional health of
29 the child or the child's sibling.

30 1. As used in this subsection, the term "sibling"
31 means another child who resides with or is cared for by the

1 parent or parents regardless of whether the child is related
2 legally or by consanguinity.

3 2. As used in this subsection, the term "egregious
4 conduct" means abuse, abandonment, neglect, or any other
5 conduct of the parent or parents that is deplorable, flagrant,
6 or outrageous by a normal standard of conduct. Egregious
7 conduct may include an act or omission that occurred only once
8 but was of such intensity, magnitude, or severity as to
9 endanger the life of the child.

10 (g) When the parent or parents have subjected the
11 child to aggravated child abuse as defined in s. 827.03,
12 sexual battery or sexual abuse as defined in s. 39.01, or
13 chronic abuse.

14 (h) When the parent or parents have committed murder
15 or voluntary manslaughter of another child of the parent, or a
16 felony assault that results in serious bodily injury to the
17 child or another child of the parent, or aided or abetted,
18 attempted, conspired, or solicited to commit such a murder or
19 voluntary manslaughter or felony assault.

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

22 Section 4. Subsections (2) and (8) of section 39.811,
23 Florida Statutes, 1998 Supplement, are amended to read:

24 39.811 Powers of disposition; order of disposition.--

25 (2) If the child is in out-of-home care custody of the
26 department and the court finds that the grounds for
27 termination of parental rights have been established by clear
28 and convincing evidence, the court shall, by order, place the
29 child in the custody of the department for the purpose of
30 adoption ~~or place the child in the custody of a licensed~~
31 ~~child-placing agency for the purpose of adoption.~~

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

14 Section 5. Section 39.812, Florida Statutes, 1998
15 Supplement, is amended to read:

16 39.812 Postdisposition relief.--

17 (1) If ~~A licensed child-placing agency~~ or the
18 department ~~which~~ is given custody of a child for subsequent
19 adoption in accordance with this chapter, the department may
20 place the child with an agency as defined in s. 63.032, with a
21 child-caring agency registered under s. 409.176, or in a
22 family home for prospective subsequent adoption, ~~and the~~
23 ~~licensed child-placing agency~~ or The department may thereafter
24 become a party to any proceeding for the legal adoption of the
25 child and appear in any court where the adoption proceeding is
26 pending and consent to the adoption, ~~and~~ that consent alone
27 shall in all cases be sufficient.

28 (2) In any subsequent adoption proceeding, the parents
29 are shall not be entitled to any notice of the proceeding and
30 are not thereof, ~~nor shall they be~~ entitled to knowledge at
31 any time after the order terminating parental rights is

1 entered of the whereabouts of the child or of the identity or
2 location of any person having the custody of or having adopted
3 the child, except as provided by order of the court pursuant
4 to this chapter or chapter 63.~~7~~ and In any habeas corpus or
5 other proceeding involving the child brought by any parent of
6 the child, an ~~no~~ agent or contract provider of the ~~licensed~~
7 ~~child-placing agency or department~~ may not ~~shall~~ be compelled
8 to divulge that information, but may be compelled to produce
9 the child before a court of competent jurisdiction if the
10 child is still subject to the guardianship of the ~~licensed~~
11 ~~child-placing agency or department~~.

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

18 (4) The court shall retain jurisdiction over any child
19 placed in the custody of ~~for whom custody is given to a~~
20 ~~licensed child-placing agency or to the department~~ until the
21 child is adopted. After custody of a child for subsequent
22 adoption has been given to ~~an agency or~~ the department, the
23 court has jurisdiction for the purpose of reviewing the status
24 of the child and the progress being made toward permanent
25 adoptive placement. As part of this continuing jurisdiction,
26 for good cause shown by the guardian ad litem for the child,
27 the court may review the appropriateness of the adoptive
28 placement of the child.

29 (5) The petition for adoption must be filed in the
30 division of the circuit court which entered the judgment
31 terminating parental rights, unless a motion for change of

1 venue is granted pursuant to s. 47.122. A copy of the consent
2 executed by the department as required under s. 63.062(7) must
3 be attached to the petition. The petition must be accompanied
4 by a form provided by the department which details the social
5 and medical history of the child and each birth parent and
6 includes the social security number and date of birth for each
7 birth parent, if such information is available or readily
8 obtainable. The person seeking to adopt the child may not file
9 a petition for adoption until the order terminating parental
10 rights becomes final. An adoption proceeding under this
11 subsection is governed by chapter 63, as limited under s.
12 63.037.

13 Section 6. Section 63.022, Florida Statutes, 1998
14 Supplement, is amended to read:

15 63.022 Legislative intent.--

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

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

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

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

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

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

1 (e) A sufficient period of time elapses during which
2 the minor child has lived within the proposed adoptive home
3 under the guidance of the department, a child-caring agency
4 registered under s. 409.176, or a licensed child-placing
5 agency.

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

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

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

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

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

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

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

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

3 (m) In dependency cases initiated by the department,
4 where termination of parental rights occurs, and siblings are
5 separated despite diligent efforts of the department,
6 continuing postadoption communication or contact among the
7 siblings may be ordered by the court if found to be in the
8 best interests of the children.

9 Section 7. Section 63.032, Florida Statutes, is
10 amended to read:

11 63.032 Definitions.--As used in this chapter act,
12 ~~unless the context otherwise requires,~~the term:

13 (1)~~(14)~~ "Abandoned" means a situation in which the
14 parent or person having legal custody ~~legal custodian~~ of a
15 child, while being able, makes no provision for the child's
16 support and makes no effort to communicate with the child,
17 which situation is sufficient to evince a willful rejection of
18 parental obligations. If, in the opinion of the court, the
19 efforts of such parent or person having legal custody of the
20 child ~~legal custodian~~ to support and communicate with the
21 child are only marginal efforts that do not evince a settled
22 purpose to assume all parental duties, the court may declare
23 the child to be abandoned. In making this decision, the court
24 may consider the conduct of a father towards the child's
25 mother during her pregnancy.

26 (2)~~(10)~~ "Adoption" means the act of creating the legal
27 relationship between parent and child where it did not exist,
28 thereby declaring the child to be legally the child of the
29 adoptive parents and their heir at law and entitled to all the
30 rights and privileges and subject to all the obligations of a
31 child born to such adoptive parents in lawful wedlock.

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

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

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

8 ~~(6)(2)~~ "Child" means a son or daughter, whether by
9 birth or adoption.

10 ~~(7)(3)~~ "Court" means any circuit court of this state
11 and, when the context requires, the court of any state that is
12 empowered to grant petitions for adoption.

13 ~~(8)(1)~~ "Department" means the Department of Children
14 and Family Services.

15 ~~(9)(8)~~ "Intermediary" means an attorney ~~or physician~~
16 who is licensed or authorized to practice in this state and
17 who has reported the intended placement of a minor for
18 adoption under s. 63.092 or, for the purpose of adoptive
19 placements of children from out of state with citizens of this
20 state, a child-placing agency licensed in another state that
21 is qualified by the department.

22 ~~(10)(4)~~ "Minor" means a person under the age of 18
23 years.

24 (11) "Parent" has the same meaning as in s. 39.01.

25 ~~(12)(6)~~ "Person" includes a natural person,
26 corporation, government or governmental subdivision or agency,
27 business trust, estate, trust, partnership, or association,
28 and any other legal entity.

29 ~~(13)(9)~~ "To place" or "placement" means the process of
30 a person giving a child up for adoption and the prospective
31 parents receiving and adopting the child, and includes all

1 actions by any person or adoption entity ~~agency~~ participating
2 in the process.

3 ~~(14)(13)~~ "Primarily lives and works outside Florida"
4 means anyone who does not meet the definition of "primary
5 residence and place of employment in Florida."

6 ~~(15)(12)~~ "Primary residence and place of employment in
7 Florida" means a person lives and works in this state at least
8 6 months of the year and intends to do so for the foreseeable
9 future or military personnel who designate Florida as their
10 place of residence in accordance with the Soldiers' and
11 Sailors' Civil Relief Act of 1940 or employees of the United
12 States Department of State living in a foreign country who
13 designate Florida as their place of residence.

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

22 Section 8. Section 63.037, Florida Statutes, is
23 created to read:

24 63.037 Proceedings applicable to cases resulting from
25 a termination of parental rights under chapter 39.--A case in
26 which a minor becomes available for adoption after the
27 parental rights of each parent have been terminated by a court
28 order issued pursuant to chapter 39 shall be governed by s.
29 39.812 and this chapter. Adoption proceedings initiated under
30 chapter 39 are exempt from the following provisions of this
31 chapter: disclosure requirements for the adoption entity

1 provided in s. 63.085; general provisions governing
2 termination of parental rights pending adoption provided in s.
3 63.087; notice and service provisions governing termination of
4 parental rights pending adoption provided in s. 63.088; and
5 procedures for terminating parental rights pending adoption
6 provided in s. 63.089.

7 Section 9. Section 63.038, Florida Statutes, is
8 created to read:

9 63.038 Prohibited acts.--

10 (1) It is unlawful for a person under this chapter to:

11 (a) Knowingly and willfully provide false information;

12 (b) Knowingly withhold material information; or

13 (c) With the intent to defraud, accept benefits

14 related to the same pregnancy from more than one adoption

15 entity without disclosing that fact to each entity.

16 (2) A person who violates any provision of this

17 section commits a misdemeanor of the second degree, punishable

18 as provided in s. 775.082 or s. 775.083. In addition, such

19 person is liable for damages caused by such acts or omissions,

20 including reasonable attorney's fees and costs. Damages may be

21 awarded through restitution in any related criminal

22 prosecution, or by filing a separate civil action.

23 Section 10. Section 63.039, Florida Statutes, is

24 created to read:

25 63.039 Duty of adoption entity to prospective adoptive

26 parents; sanctions.--

27 (1) An adoption entity placing a minor for adoption

28 has an affirmative duty to follow the requirements of this

29 chapter; specifically, the following provisions, which protect

30 and promote the well-being of persons being adopted and their

31 parents and prospective adoptive parents by promoting

1 certainty, finality, and permanency for such persons. The
2 adoption entity must:
3 (a) Provide written initial disclosure to the
4 prospective adoptive parent at the time and in the manner
5 required under s. 63.085(1).
6 (b) Provide written initial and postbirth disclosure
7 to the parent at the time and in the manner required under s.
8 63.085.
9 (c) When a written consent for adoption is obtained,
10 obtain the consent at the time and in the manner required
11 under s. 63.082.
12 (d) When a written consent or affidavit of
13 nonpaternity for adoption is obtained, obtain a consent to
14 adoption or affidavit of nonpaternity that contains the
15 language required under s. 63.062 or s. 63.082.
16 (e) Include in the petition to terminate parental
17 rights pending adoption all information required under s.
18 63.087(6)(e).
19 (f) Obtain and file the affidavit of inquiry pursuant
20 to s. 63.088(3), if the required inquiry is not conducted
21 orally in the presence of the court.
22 (g) When the identity of a person whose consent to
23 adoption is necessary under this chapter is known but the
24 location of such a person is unknown, conduct the diligent
25 search and file the affidavit required under s. 63.088(4).
26 (h) Serve the petition and notice of hearing to
27 terminate parental rights pending adoption at the time and in
28 the manner required by s. 63.088.
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

1 prospective adoptive parents or on their behalf in
2 anticipation of or in connection with an adoption.

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

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

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

1 Section 11. Subsection (1) of section 63.0425, Florida
2 Statutes, is amended to read:

3 63.0425 Grandparent's right to adopt.--

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

11 Section 12. Section 63.052, Florida Statutes, 1998
12 Supplement, is amended to read:

13 63.052 Guardians designated; proof of commitment.--

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

21 (2) For minors who have been voluntarily surrendered
22 to an intermediary through an execution of consent to
23 adoption, the intermediary shall be responsible for the child
24 until the time a court orders preliminary approval of
25 placement of the child in the prospective adoptive home, at
26 which time the prospective adoptive parents become guardians
27 pending finalization of adoption. Until a court has terminated
28 parental rights pending adoption and has ordered preliminary
29 approval of placement of the minor in the adoptive home, the
30 minor must be placed in the care of a relative as defined in
31 s. 39.01, in foster care, or in the care of a prospective

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

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

26 (3) If a minor is surrendered to an intermediary for
27 subsequent adoption and a suitable prospective adoptive home
28 is not available pursuant to s. 63.092 at the time the minor
29 is surrendered to the intermediary or, if the minor is a
30 newborn admitted to a licensed hospital or birth center, at
31 the time the minor is discharged from the hospital or birth

1 center, the minor must be placed in licensed foster care, ~~the~~
2 ~~intermediary shall be responsible for the child~~ until such a
3 suitable prospective adoptive home is available.

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

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

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

25 (7) The court retains jurisdiction over a minor who
26 has been placed for adoption until the adoption is final.
27 After a minor is placed with an adoption entity or prospective
28 adoptive parent, the court may review the status of the minor
29 and the progress toward permanent adoptive placement. As part
30 of this continuing jurisdiction, for good cause shown by a
31 person whose consent to an adoption is required under s.

1 63.062, by a party to any proceeding involving the minor, or
2 upon the court's own motion, the court may review the
3 appropriateness of the adoptive placement of the minor.

4 Section 13. Section 63.062, Florida Statutes, is
5 amended to read:

6 63.062 Persons required to consent to adoption;
7 affidavit of nonpaternity.--

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

14 (a) The mother of the minor.

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

16 1. The minor was conceived or born while the father
17 was married to the mother;—

18 2. The minor is his child by adoption; or—

19 3. The minor has been established by court proceeding
20 to be his child.

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

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

28 1.4. He Has acknowledged in writing, signed in the
29 presence of a competent witness, that he is the father of the
30 minor and has filed such acknowledgment with the Office of
31 Vital Statistics of the Department of Health;—

1 ~~2.5. He~~ Has provided, or has attempted to provide, the
2 child or the mother during her pregnancy with support in a
3 repetitive, customary manner; or-

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

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

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

14 (2) Any person whose consent is required under
15 paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) may
16 execute an affidavit of nonpaternity in lieu of a consent
17 under this section and by doing so waives notice to all court
18 proceedings after the date of execution. An affidavit of
19 nonpaternity must be executed as provided in s. 63.082. The
20 person executing the affidavit must receive disclosure under
21 s. 63.085 prior to signing the affidavit.

22 (3) A person who signs a consent to adoption or an
23 affidavit of nonpaternity must be given reasonable notice of
24 his or her right to select a person who does not have an
25 employment, professional, or personal relationship with the
26 adoption entity or the prospective adoptive parents to be
27 present when the consent to adoption or affidavit of
28 nonpaternity is executed and to sign the consent or affidavit
29 as a witness.

30 (4) An affidavit of nonpaternity must be in
31 substantially the following form:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

AFFIDAVIT OF NONPATERNITY

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

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

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

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

5. I have no interest in assuming the responsibilities of parenthood for this child. I will not acknowledge in writing that I am the father of this child nor institute court proceedings to establish the child as mine.

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

7. I have been told of my right to choose a person who does not have an employment,

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

5
6 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
7 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
8 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

9
10 ~~(5)(2)~~ The court may require that consent be executed
11 by:

12 (a) Any person lawfully entitled to custody of the
13 minor; or

14 (b) The court having jurisdiction to determine custody
15 of the minor, if the person having physical custody of the
16 minor has no authority to consent to the adoption.

17 ~~(6)(3)~~ The petitioner must make good faith and
18 diligent efforts as provided under s. 63.088 to notify, and
19 obtain written consent from, the persons required to consent
20 to adoption under this section ~~within 60 days after filing the~~
21 ~~petition. These efforts may include conducting interviews and~~
22 ~~record searches to locate those persons, including verifying~~
23 ~~information related to location of residence, employment,~~
24 ~~service in the Armed Forces, vehicle registration in this~~
25 ~~state, and corrections records.~~

26 ~~(7)(4)~~ If parental rights to the minor have previously
27 been terminated, a licensed child-placing agency, a
28 child-caring agency registered under s. 409.176, or the
29 department with which the minor ~~child~~ has been placed for
30 subsequent adoption may provide consent to the adoption. In
31 such case, no other consent is required.

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

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

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

8 Section 14. Section 63.082, Florida Statutes, is
9 amended to read:

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

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

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

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

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

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

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

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

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

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

25 (c) If any executed consent or social and medical
26 history is unavailable because the person whose consent is
27 required cannot be located or identified, the petition must be
28 accompanied by the affidavit of diligent search required under
29 s. 63.088.

30 (4)(a) The consent to an adoption or affidavit of
31 nonpaternity shall not for voluntary surrender must be

1 executed before ~~after~~ the birth of the minor. Notwithstanding
2 paragraphs (b) and (c), any consent to adoption may be revoked
3 at any time prior to the placement of the minor with the
4 prospective adoptive parents.

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

- 9 1. Forty-eight hours after the minor's birth; or
10 2. The day the birth mother has been notified in
11 writing, either on her patient chart or in release paperwork,
12 that she is fit to be released from a licensed hospital or
13 birth center,

14
15 whichever is earlier. A consent executed under this paragraph
16 is valid upon execution and may be withdrawn only if the court
17 finds that it was obtained by fraud or under duress.

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

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

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

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

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

1 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
2 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
3 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:
4
5 1. CONSULT WITH AN ATTORNEY;
6 2. HOLD, CARE FOR, AND FEED THE CHILD;
7 3. PLACE THE CHILD IN FOSTER CARE OR WITH
8 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
9 WILLING TO CARE FOR THE CHILD;
10 4. TAKE THE CHILD HOME; 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 UPON THE
20 CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
21 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD
22 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT
23 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE
24 TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS
25 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT
26 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO
27 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
28 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY
29 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE
30 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
31

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 IF YOU DO IT WITHIN
14 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE
15 CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE
16 BIRTH MOTHER'S DISCHARGE FROM A LICENSED
17 HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.
18
19 REGARDLESS OF THE REVOCATION PERIOD, YOU MAY
20 WITHDRAW YOUR CONSENT AT ANY TIME PRIOR TO THE
21 PLACEMENT OF THE CHILD WITH THE PROSPECTIVE
22 ADOPTIVE PARENTS.
23
24 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
25 PERIOD, YOU MUST:
26 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
27 A LETTER, THAT YOU ARE WITHDRAWING YOUR
28 CONSENT.
29 2. MAIL THE LETTER AT A UNITED STATES
30 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
31 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY

1 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE
2 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
3 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
4 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
5 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.
6 3. SEND THE LETTER BY CERTIFIED UNITED
7 STATES MAIL WITH RETURN RECEIPT REQUESTED.
8 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
9 THE LETTER.
10 5. KEEP THE CERTIFIED MAIL RECEIPT AS
11 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
12 MANNER.
13
14 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
15 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
16 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY
17 IN WRITING BY CERTIFIED UNITED STATES MAIL,
18 RETURN RECEIPT REQUESTED.
19
20 THE ADOPTION ENTITY YOU SHOULD NOTIFY IS:
21 ...(name of adoption entity)..., ...(address of
22 adoption entity)..., ...(phone number of
23 adoption entity)....
24
25 ONCE THE REVOCATION PERIOD IS OVER OR THE CHILD
26 HAS BEEN PLACED WITH THE PROSPECTIVE ADOPTIVE
27 PARENTS, YOU MAY NOT WITHDRAW YOUR CONSENT
28 UNLESS YOU CAN PROVE IN COURT THAT CONSENT WAS
29 OBTAINED BY FRAUD OR UNDER DURESS.
30
31

1 (5) Before any consent to adoption or affidavit of
2 nonpaternity is executed by a parent, but after the birth of
3 the minor, all requirements of disclosure under s. 63.085 must
4 be met.

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

19 ~~(7)~~(5)(a) A consent to adoption that is being
20 withdrawn under paragraph (4)(a) may be withdrawn at any time
21 prior to the minor's placement with the prospective adoptive
22 parents by notifying the adoption entity in writing by
23 certified United States mail, return receipt requested.
24 Consent to adoption executed under paragraph (4)(c) may be
25 withdrawn for any reason by notifying the adoption entity in
26 writing by certified United States mail, return receipt
27 requested, not later than 3 business days after execution of
28 the consent or 1 business day after the date of the birth
29 mother's discharge from a licensed hospital or birth center,
30 whichever occurs later. As used in this subsection, the term
31

1 "business day" means any day on which the United States Postal
2 Service accepts certified mail for delivery.

3 (b) Upon receiving written notice from a person of
4 that person's desire to withdraw consent to adoption, the
5 adoption entity must contact the prospective adoptive parent
6 to arrange a time certain for the adoption entity to regain
7 physical custody of the minor, unless, upon a motion for
8 emergency hearing by the adoption entity, the court determines
9 in written findings that placement of the minor with the
10 person withdrawing consent may endanger the minor.

11 (c) If the court finds that such placement may
12 endanger the minor, the court must enter an order regarding
13 continued placement of the minor. The order shall include, but
14 not be limited to, whether temporary placement in foster care
15 is appropriate, whether an investigation by the department is
16 recommended, and whether a relative within the third degree is
17 available for the temporary placement.

18 (d) If the person withdrawing consent claims to be the
19 father of the minor but has not been established to be the
20 father by marriage, court order, or scientific testing, the
21 court may order scientific paternity testing and reserve
22 ruling on removal of the minor until the results of such
23 testing have been filed with the court.

24 (e) Absent a court order for continued placement of
25 the minor entered under this subsection, the adoption entity
26 must return the minor, within 3 days after notification of the
27 withdrawal of consent, to the physical custody of the person
28 withdrawing consent.

29 (f) Following the revocation period for withdrawal of
30 consent described in paragraph (a), or the placement of the
31 child with the prospective adoptive parents, consent may be

1 withdrawn only when the court finds that the consent was
2 obtained by fraud or under duress.

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

6 Section 15. Section 63.085, Florida Statutes, is
7 amended to read:

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

10 63.085 Disclosure by adoption entity.--

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

23
24 ADOPTION DISCLOSURE

25
26 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
27 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
28 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
29 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
30 ADOPTION UNDER FLORIDA LAW:
31

- 1 1. Under section 63.102, Florida
2 Statutes, the existence of a placement or
3 adoption contract signed by the parent or
4 prospective adoptive parent, prior approval of
5 that contract by the court, or payment of any
6 expenses permitted under Florida law does not
7 obligate anyone to sign a consent or ultimately
8 place a minor for adoption.
- 9 2. Under sections 63.092 and 63.125,
10 Florida Statutes, a favorable preliminary home
11 study and a final home investigation of the
12 prospective adoptive home must be completed
13 before the minor may be placed in that home.
- 14 3. Under section 63.082, Florida
15 Statutes, a consent to adoption or affidavit of
16 nonpaternity may not be signed until after the
17 birth of the minor.
- 18 4. Under section 63.082, Florida
19 Statutes, if the minor is to be placed for
20 adoption upon release from a licensed hospital
21 or birth center following birth, the consent to
22 adoption may not be signed until 48 hours after
23 birth or until the day the birth mother has
24 been notified in writing, either on her patient
25 chart or in release papers, that she is fit to
26 be released from the licensed hospital or birth
27 center, whichever is sooner. The consent to
28 adoption or affidavit of nonpaternity is valid
29 and binding upon execution unless the court
30 finds it was obtained by fraud or under duress.
31

1 5. Under section 63.082, Florida
2 Statutes, if the minor is not placed for
3 adoption upon release from the hospital or
4 birth center following birth, a 3-day
5 revocation period applies during which consent
6 may be withdrawn for any reason by notifying
7 the adoption entity in writing. In order to
8 withdraw consent, the written withdrawal of
9 consent must be mailed at a United States Post
10 Office no later than 3 business days after
11 execution of the consent or 1 business day
12 after the date of the birth mother's discharge
13 from a licensed hospital or birth center,
14 whichever occurs later. For purposes of mailing
15 the withdrawal of consent, the term "business
16 day" means any day on which the United States
17 Postal Service accepts certified mail for
18 delivery. The letter must be sent by certified
19 United States mail, return receipt requested.
20 Postal costs must be paid at the time of
21 mailing and the receipt should be retained as
22 proof that consent was withdrawn in a timely
23 manner.

24 6. Under section 63.082, Florida
25 Statutes, and notwithstanding the revocation
26 period, the consent may be withdrawn at any
27 time prior to the placement of the child with
28 the prospective adoptive parents, by notifying
29 the adoption entity in writing by certified
30 United States mail, return receipt requested.
31

1 7. Under section 63.082, Florida
2 Statutes, if an adoption entity timely receives
3 written notice from a person of that person's
4 desire to withdraw consent, the adoption entity
5 must contact the prospective adoptive parent to
6 arrange a time certain to regain physical
7 custody of the child. Absent a court order for
8 continued placement of the child entered under
9 section 63.082, Florida Statutes, the adoption
10 entity must return the minor within 3 days
11 after notification of the withdrawal of consent
12 to the physical custody of the person
13 withdrawing consent. After the revocation
14 period for withdrawal of consent ends, or after
15 the placement of the child with the prospective
16 adoptive parents, the consent may be withdrawn
17 only if the court finds that the consent was
18 obtained by fraud or under duress.

19 8. Under section 63.082, Florida
20 Statutes, an affidavit of nonpaternity, once
21 executed, may be withdrawn only if the court
22 finds that it was obtained by fraud or under
23 duress.

24 9. Under section 63.082, Florida
25 Statutes, a person who signs a consent to
26 adoption or an affidavit of nonpaternity must
27 be given reasonable notice of his or her right
28 to select a person who does not have an
29 employment, professional, or personal
30 relationship with the adoption entity or the
31 prospective adoptive parents to be present when

1 the consent or affidavit is executed and to
2 sign the consent or affidavit as a witness.
3 10. Under section 63.088, Florida
4 Statutes, specific and extensive efforts are
5 required by law to attempt to obtain the
6 consents required under section 63.062, Florida
7 Statutes. If these efforts are unsuccessful,
8 the court may not enter a judgment terminating
9 parental rights pending adoption until certain
10 requirements have been met.
11 11. Under Florida law, an intermediary
12 may represent the legal interests of only the
13 prospective adoptive parents. Each person whose
14 consent to an adoption is required under
15 section 63.062, Florida Statutes, is entitled
16 to seek independent legal advice and
17 representation before signing any document or
18 surrendering parental rights.
19 12. Under section 63.182, Florida
20 Statutes, an action or proceeding of any kind
21 to vacate, set aside, or otherwise nullify a
22 judgment of adoption or an underlying judgment
23 terminating parental rights pending adoption,
24 on any ground, with the exception of fraud or
25 duress which must be brought within 2 years,
26 must be filed within 1 year after entry of the
27 judgment terminating parental rights pending
28 adoption.
29 13. Under section 63.089, Florida
30 Statutes, a judgment terminating parental
31 rights pending adoption is voidable and any

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

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

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

- 1 16. Each parent and prospective adoptive
2 parent is entitled to independent legal advice
3 and representation. Attorney information may be
4 obtained from the yellow pages, The Florida
5 Bar's lawyer referral service, and local legal
6 aid offices and bar associations.
- 7 17. Counseling services may be helpful
8 while making a parenting decision. Consult the
9 yellow pages of the telephone directory.
- 10 18. Medical and social services support
11 is available if the parent wishes to retain
12 parental rights and responsibilities. Consult
13 the Department of Children and Family Services.
- 14 19. Under section 63.039, Florida
15 Statutes, an adoption entity has certain legal
16 responsibilities and may be liable for damages
17 to persons whose consent to an adoption is
18 required or to prospective adoptive parents for
19 failing to materially meet those
20 responsibilities. Damages may also be recovered
21 from an adoption entity if a consent to
22 adoption or affidavit of nonpaternity is
23 obtained by fraud or under duress attributable
24 to an adoption entity.
- 25 20. Under section 63.097, Florida
26 Statutes, reasonable living expenses of the
27 birth mother may be paid by the prospective
28 adoptive parents and the adoption entity only
29 if the birth mother is unable to pay due to
30 involuntary unemployment or medical disability.
31 The law also allows payment of reasonable and

1 necessary medical expenses, expenses necessary
2 to comply with the requirements of chapter 63,
3 Florida Statutes, court filing expenses, and
4 costs associated with advertising. Certain
5 documented legal, counseling, and other
6 professional fees may be paid. Prior approval
7 of the court is not required until the
8 cumulative total of amounts permitted exceeds
9 \$2,500 in legal or other fees, \$500 in court
10 costs, or \$3,000 in expenditures. The following
11 fees, costs, and expenses are prohibited:
12 a. Any fee or expense that constitutes
13 payment for locating a minor for adoption.
14 b. Cumulative expenses in excess of \$500
15 which are incurred prior to the date the
16 prospective adoptive parent retains the
17 adoption entity.
18 c. Any lump-sum payment to the entity
19 which is nonrefundable directly to the payor or
20 which is not itemized on the affidavit.
21 d. Any fee on the affidavit which does
22 not specify the service that was provided and
23 for which the fee is being charged, such as a
24 fee for facilitation or acquisition.
25
26 The court may reduce amounts charged or refund
27 amounts that have been paid if it finds that
28 these amounts were more than what was
29 reasonable or allowed under the law.
30 21. Under section 63.132, Florida
31 Statutes, the adoption entity and the

1 prospective adoptive parents must sign and file
2 with the court a written statement under oath
3 listing all the fees, expenditures, and costs
4 made, or agreed to be made, by or on behalf of
5 the prospective adoptive parents and any
6 adoption entity in connection with the
7 adoption. The affidavit must state whether any
8 of the expenses were or are eligible to be paid
9 for by any other source. A copy of the
10 affidavit shall be sent to the Department of
11 Children and Family Services which must keep it
12 for 5 years and provide a copy to any person
13 who asks for it. On any copy given out, the
14 department must black out any words that
15 identify the child, the parents, or the
16 prospective adoptive parents.

17 22. Under section 63.132, Florida
18 Statutes, the court order approving the money
19 spent on the adoption must be separate from the
20 judgment making the adoption final. The court
21 may approve only certain costs and expenditures
22 and only if there is a receipt. The court may
23 approve only fees that are allowed under law
24 and that it finds to be "reasonable." A good
25 idea of what is and is not allowed to be paid
26 for in an adoption can be determined by reading
27 sections 63.082 and 63.132, Florida Statutes.

28
29 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
30 must obtain a written statement acknowledging receipt of the
31 disclosure required under subsection (1) and signed by the

1 persons receiving the disclosure or, if it is not possible to
2 obtain such an acknowledgment, the adoption entity must
3 execute an affidavit stating why an acknowledgment could not
4 be obtained. If the disclosure was delivered by certified
5 United States mail, return receipt requested, a return receipt
6 signed by the person from whom acknowledgment is required is
7 sufficient to meet the requirements of this subsection. A copy
8 of the acknowledgment of receipt of the disclosure must be
9 provided to the person signing it. A copy of the
10 acknowledgment or affidavit executed by the adoption entity in
11 lieu of the acknowledgment must be maintained in the file of
12 the adoption entity. The original acknowledgment or affidavit
13 must be filed with the court. In the case of a disclosure
14 provided under subsection (1), the original acknowledgment or
15 affidavit must be included in the preliminary home study
16 required in s. 63.092.

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

22 Section 16. Section 63.087, Florida Statutes, is
23 created to read:

24 63.087 Proceeding to terminate parental rights pending
25 adoption; general provisions.--

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

30
31

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

4 (3) JURISDICTION.--A court of this state which is
5 competent to decide child welfare or custody matters has
6 jurisdiction to hear all matters arising from a proceeding to
7 terminate parental rights pending adoption. All subsequent
8 proceedings for the adoption of the minor, if the petition for
9 termination is granted, must be conducted by the same judge
10 who conducted the termination proceedings, whenever possible.
11 The court may change the venue in accordance with s. 47.122.

12 (4) VENUE.--A petition to terminate parental rights
13 pending adoption must be filed:

14 (a) In the county where the child resided for the
15 previous 6 months;

16 (b) If the child is younger than 6 months of age or
17 has not continuously resided in one county for the previous 6
18 months, in the county where the parent resided at the time of
19 the execution of the consent to adoption or the affidavit of
20 nonpaternity; or

21 (c) If there is no consent or affidavit of
22 nonpaternity executed by a parent, in the county where the
23 birth mother resides.

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

30 (6) PETITION.--
31

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

5 (b) The petition may be filed by a parent or person
6 having legal custody of the minor. The petition may be filed
7 by an adoption entity only if a parent or person having legal
8 custody who has executed a consent to adoption pursuant to s.
9 63.082 consents in writing to the entity filing the petition.
10 The original of such consent must be filed with the petition.

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

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

22 (e) The petition to terminate parental rights pending
23 adoption must be in writing and signed by the petitioner under
24 oath stating the petitioner's good faith in filing the
25 petition. A written consent to adoption, affidavit of
26 nonpaternity, or affidavit of diligent search under s. 63.088,
27 for each person whose consent to adoption is required under s.
28 63.062, must be executed and attached.

29 (f) The petition must include:

30 1. The minor's name, gender, date of birth, and place
31 of birth. The petition must contain all names by which the

1 minor is or has been known, including the minor's legal name
2 at the time of the filing of the petition, to allow interested
3 parties to the action, including parents, persons having legal
4 custody of the minor, persons with custodial or visitation
5 rights to the minor, and persons entitled to notice pursuant
6 to the Uniform Child Custody Jurisdiction Act or the Indian
7 Child Welfare Act, to identify their own interest in the
8 action.

9 2. If the petition is filed before the day the minor
10 is 6 months old and if the identity or location of the father
11 is unknown, each city in which the mother resided or traveled
12 in which conception may have occurred, during the 12 months
13 before the minor's birth, including the county and state in
14 which that city is located.

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

20 a. The minor's mother;

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

23 c. Any person who has legal custody, as defined in s.
24 39.01, of the minor.

25
26 If a required name or address is not known, the petition must
27 so state.

28 4. All information required by the Uniform Child
29 Custody Jurisdiction Act and the Indian Child Welfare Act.

30 5. A statement of the grounds under s. 63.089 upon
31 which the petition is based.

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

3 7. The name, address, and telephone number of the
4 division of the circuit court in which the petition is to be
5 filed.

6 (7) ANSWER NOT REQUIRED.--An answer to the petition or
7 any pleading need not be filed by any minor, parent, or person
8 having legal custody of the minor, but any matter that might
9 be set forth in an answer or other pleading may be pleaded
10 orally before the court or filed in writing. However, failure
11 to file a written response or to appear at the hearing on the
12 petition constitutes grounds upon which the court may
13 terminate parental rights. Notwithstanding the filing of any
14 answer or any pleading, any person present at the hearing to
15 terminate parental rights pending adoption whose consent to
16 adoption is required under s. 63.062 must:

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

20 (b) Be given an opportunity to deny the allegations in
21 the petition; and

22 (c) Be given the opportunity to challenge the validity
23 of any consent or affidavit of nonpaternity signed by any
24 person.

25 Section 17. Section 63.088, Florida Statutes, is
26 created to read:

27 63.088 Proceeding to terminate parental rights pending
28 adoption; notice and service; diligent search.--

29 (1) INITIATE LOCATION AND IDENTIFICATION
30 PROCEDURES.--When the location or identity of a person whose
31 consent to an adoption is required but is not known, the

1 adoption entity must begin the inquiry and diligent search
2 process required by this section not later than 7 days after
3 the date on which the person seeking to place a minor for
4 adoption has evidenced in writing to the entity a desire to
5 place the minor for adoption with that entity, or not later
6 than 7 days after the date any money is provided as permitted
7 under this chapter by the adoption entity for the benefit of
8 the person seeking to place a minor for adoption.

9 (2) LOCATION AND IDENTITY KNOWN.--Before the court may
10 determine that a minor is available for adoption, and in
11 addition to the other requirements set forth in this chapter,
12 each person whose consent is required under s. 63.062, who has
13 not executed an affidavit of nonpaternity and whose location
14 and identity have been determined by compliance with the
15 procedures in this section, must be personally served,
16 pursuant to chapter 48, at least 30 days before the hearing
17 with a copy of the petition to terminate parental rights
18 pending adoption and with notice in substantially the
19 following form:

20
21 NOTICE OF PETITION AND HEARING

22 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

23
24 A petition to terminate parental rights pending
25 adoption has been filed. A copy of the petition
26 is being served with this notice. There will be
27 a hearing on the petition to terminate parental
28 rights pending adoption on ... (date) ... at
29 ... (time) ... before ... (judge) ... at ...
30 (location, including complete name and street
31 address of the courthouse) The court has

1 set aside ... (amount of time) ... for this
2 hearing.

3
4 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
5 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
6 THE COURT OR TO APPEAR AT THIS HEARING
7 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL
8 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING
9 THE MINOR CHILD.

10
11 (3) REQUIRED INQUIRY.--In all cases filed under this
12 section, the court must conduct an inquiry of the person who
13 is placing the minor for adoption and of any relative or
14 person having legal custody of the minor who is present at the
15 hearing and likely to have the following information regarding
16 the identity of:

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

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

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

24 (d) Any person the mother has reason to believe may be
25 the father and from whom she has received payments or promises
26 of support with respect to the minor or because of her
27 pregnancy;

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

31

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

3 (g) Any person the mother has reason to believe may be
4 the father.

5
6 The information required under this subsection may be provided
7 to the court in the form of a sworn affidavit by a person
8 having personal knowledge of the facts, addressing each
9 inquiry enumerated in this subsection, except that, if the
10 inquiry identifies a father under paragraph (a) or paragraph
11 (b), the inquiry shall not continue further. The inquiry
12 required under this subsection may be conducted before the
13 birth of the minor.

14 (4) LOCATION UNKNOWN; IDENTITY DETERMINED.--If the
15 inquiry by the court under subsection (3) identifies any
16 person whose consent to adoption is required under s. 63.062
17 and who has not executed a consent to adoption or an affidavit
18 of nonpaternity, and the location of the person from whom
19 consent is required is unknown, the adoption entity must
20 conduct a diligent search for that person which must include
21 inquiries concerning:

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

25 (b) The last known employment of the person, including
26 the name and address of the person's employer. Inquiry should
27 be made of the last known employer as to any address to which
28 wage and earnings statements (W-2 forms) of the person have
29 been mailed. Inquiry should be made of the last known employer
30 as to whether the person is eligible for a pension or

31

- 1 profit-sharing plan and any address to which pension or other
2 funds have been mailed;
- 3 (c) Union memberships the person may have held or
4 unions that governed the person's particular trade or craft in
5 the area where the person last resided;
- 6 (d) Regulatory agencies, including those regulating
7 licensing in the area where the person last resided;
- 8 (e) Names and addresses of relatives to the extent
9 such can be reasonably obtained from the petitioner or other
10 sources, contacts with those relatives, and inquiry as to the
11 person's last known address. The petitioner shall pursue any
12 leads of any addresses to which the person may have moved.
13 Relatives include, but are not limited to, parents, brothers,
14 sisters, aunts, uncles, cousins, nieces, nephews,
15 grandparents, great-grandparents, former or current in-laws,
16 stepparents, and stepchildren;
- 17 (f) Information as to whether or not the person may
18 have died and, if so, the date and location;
- 19 (g) Telephone listings in the area where the person
20 last resided;
- 21 (h) Inquiries of law enforcement agencies in the area
22 where the person last resided;
- 23 (i) Highway patrol records in the state where the
24 person last resided;
- 25 (j) Department of Corrections records in the state
26 where the person last resided;
- 27 (k) Hospitals in the area where the person last
28 resided;
- 29 (l) Records of utility companies, including water,
30 sewer, cable television, and electric companies, in the area
31 where the person last resided;

1 (m) Records of the Armed Forces of the United States
2 as to whether there is any information as to the person;
3 (n) Records of the tax assessor and tax collector in
4 the area where the person last resided;
5 (o) Search of one Internet databank locator service;
6 and
7 (p) Inquiry of the information held by all medical
8 providers who rendered medical treatment or care to the birth
9 mother and child, including the identity and location
10 information of all persons listed by the mother as being
11 financially responsible for the uninsured expenses of
12 treatment or care and all persons who made any such payments.

13
14 Any person contacted by a petitioner who is requesting
15 information pursuant to this subsection must release the
16 requested information to the petitioner, except when
17 prohibited by law, without the necessity of a subpoena or
18 court order. An affidavit of diligent search executed by the
19 petitioner and the adoption entity must be filed with the
20 court confirming completion of each aspect of the diligent
21 search enumerated in this subsection and specifying the
22 results. The diligent search required under this subsection
23 may be conducted before the birth of the minor.

24 (5) LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.--This
25 subsection only applies if, as to any person whose consent is
26 required under s. 63.062 and who has not executed an affidavit
27 of nonpaternity, the location or identity of the person is
28 unknown and the inquiry under subsection (3) fails to identify
29 the person or the diligent search under subsection (4) fails
30 to locate the person. The unlocated or unidentified person
31 must be served notice under subsection (2) by constructive

1 service in the manner provided in chapter 49 in each county
2 identified in the petition, as provided in s. 63.087(6). The
3 notice, in addition to all information required in the
4 petition under s. 63.087(6) and chapter 49, must contain a
5 physical description, including, but not limited to, age,
6 race, hair and eye color, and approximate height and weight of
7 the minor's mother and of any person the mother reasonably
8 believes may be the father; the minor's date of birth; and any
9 date and city, including the county and state in which the
10 city is located, in which conception may have occurred. If any
11 of the facts that must be included in the petition under this
12 subsection are unknown and cannot be reasonably ascertained,
13 the petition must so state.

14 Section 18. Section 63.089, Florida Statutes, is
15 created to read:

16 63.089 Proceeding to terminate parental rights pending
17 adoption.--

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

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

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

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

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

28 3. Notice has been provided under ss. 63.087 and
29 63.088;

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

- 1 1. At least 30 days have elapsed since the date of
2 personal service and an affidavit of service has been filed
3 with the court;
- 4 2. At least 60 days have elapsed since the first date
5 of publication of constructive service and an affidavit of
6 service has been filed with the court; or
- 7 3. An affidavit of nonpaternity which affirmatively
8 waives service has been executed and filed with the court;
9 (c) The minor named in the petition has been born; and
10 (d) The petition contains all information required
11 under s. 63.087 and all affidavits of inquiry, diligent
12 search, and service required under s. 63.088 have been
13 obtained and filed with the court.
- 14 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
15 ADOPTION.--The court may enter a judgment terminating parental
16 rights pending adoption if the court determines by clear and
17 convincing evidence that each person whose consent to adoption
18 is required under s. 63.062:
- 19 (a) Has executed a valid consent that has not been
20 withdrawn under s. 63.082 and the consent was obtained
21 according to the requirements of this chapter;
- 22 (b) Has executed an affidavit of nonpaternity and the
23 affidavit was obtained according to the requirements of this
24 chapter;
- 25 (c) Has been properly served notice of the proceeding
26 in accordance with the requirements of this chapter and has
27 failed to file a written answer or appear at the evidentiary
28 hearing resulting in the judgment terminating parental rights
29 pending adoption;
30
31

1 (d) Has been properly served notice of the proceeding
2 in accordance with the requirements of this chapter and has
3 abandoned the minor as defined in s. 63.032;

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

7 (f) Is a person who has legal custody of the person to
8 be adopted, other than a parent, who has failed to respond in
9 writing to a request for consent for a period of 60 days or,
10 after examination of his or her written reasons for
11 withholding consent, is found by the court to be withholding
12 his or her consent unreasonably; or

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

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

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

27 1. Whether the actions alleged to constitute
28 abandonment demonstrate a willful disregard for the safety of
29 the child or unborn child;
30
31

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

4 3. Whether the person alleged to have abandoned the
5 child, while being able, refused to provide financial support
6 when such support was requested by the person having legal
7 custody of the child;

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

13 5. Whether the amount of support provided or medical
14 expenses paid was appropriate, taking into consideration the
15 needs of the child and relative means and resources available
16 to the person alleged to have abandoned the child and
17 available to the person having legal custody of the child
18 during the period the child allegedly was abandoned; and

19 6. Whether the person having legal custody of the
20 child made the child's whereabouts known to the person alleged
21 to have abandoned the child, advised that person of the needs
22 of the child or the needs of the mother of an unborn child
23 with regard to the pregnancy, or informed that person of
24 events such as medical appointments and tests relating to the
25 child or, if unborn, the pregnancy.

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

29 1. The period of time for which the parent is expected
30 to be incarcerated will constitute a substantial portion of
31

1 the period of time before the child will attain the age of 18
2 years;

3 2. The incarcerated parent has been determined by the
4 court to be a violent career criminal as defined in s.
5 775.084, a habitual violent felony offender as defined in s.
6 775.084, or a sexual predator as defined in s. 775.21; has
7 been convicted of first degree or second degree murder in
8 violation of s. 782.04 or a sexual battery that constitutes a
9 capital, life, or first degree felony violation of s. 794.011;
10 or has been convicted of an offense in another jurisdiction
11 which is substantially similar to one of the offenses listed
12 in this paragraph. As used in this section, the term
13 "substantially similar offense" means any offense that is
14 substantially similar in elements and penalties to one of
15 those listed in this paragraph, and that is in violation of a
16 law of any other jurisdiction, whether that of another state,
17 the District of Columbia, the United States or any possession
18 or territory thereof, or any foreign jurisdiction; and

19 3. The court determines by clear and convincing
20 evidence that continuing the parental relationship with the
21 incarcerated parent would be harmful to the child and, for
22 this reason, that termination of the parental rights of the
23 incarcerated parent is in the best interest of the child.

24 (c) The only conduct of a father toward a mother
25 during pregnancy that the court may consider in determining
26 whether the child has been abandoned is conduct that occurred
27 after reasonable and diligent efforts have been made to inform
28 the father that he is, or may be, the father of the child.

29 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
30 court does not find by clear and convincing evidence that
31 parental rights of a parent should be terminated pending

1 adoption, the court must dismiss the petition with prejudice
2 and that parent's parental rights remain in full force under
3 the law. The order must include written findings in support of
4 the dismissal. Parental rights may not be terminated based
5 upon a consent that the court finds has been timely withdrawn
6 under s. 63.082 or a consent to adoption or affidavit of
7 nonpaternity that the court finds was obtained by fraud or
8 under duress. The court must enter an order based upon written
9 findings providing for the placement of the minor. The court
10 may order scientific testing to determine the paternity of the
11 minor at any time during which the court has jurisdiction over
12 the minor. Further proceedings, if any, regarding the minor
13 must be brought in a separate custody action under chapter 61,
14 a dependency action under chapter 39, or a paternity action
15 under chapter 742.

16 (6) A JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
17 ADOPTION.--

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

21 (b) Within 24 hours after filing, the clerk of the
22 court shall mail a copy of the judgment to the department, the
23 petitioner, and the respondent. The clerk shall execute a
24 certificate of each mailing.

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

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

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

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

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

31

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

8 Section 19. Section 63.092, Florida Statutes, 1998
9 Supplement, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

27 Section 20. Section 63.097, Florida Statutes, is
28 amended to read:

29 63.097 Fees.--
30
31

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

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

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

14 (b) Reasonable and necessary medical expenses.

15 (c) Expenses necessary to comply with the requirements
16 of this chapter, including, but not limited to, service of
17 process under s. 63.088, a diligent search under s. 63.088, a
18 preliminary home study under s. 63.092, and a final home
19 investigation under s. 63.125.

20 (d) Court filing expenses, court costs, and other
21 litigation expenses.

22 (e) Costs associated with advertising under s.
23 63.212(1)(g).

24 (f) The following professional fees:

25 1. A reasonable hourly fee necessary to provide legal
26 representation to the adoptive parents in a proceeding filed
27 under this chapter.

28 2. A reasonable hourly fee for contact with the parent
29 related to the adoption. In determining a reasonable hourly
30 fee under this subparagraph, the court must consider if the
31 tasks done were clerical or of such a nature that the matter

1 could have been handled by support staff at a lesser rate than
2 the rate for legal representation charged under subparagraph
3 1. Such tasks specifically do not include obtaining a parent's
4 signature on any document; such tasks include, but need not be
5 limited to, transportation, transmitting funds, arranging
6 appointments, and securing accommodations.
7 3. A reasonable hourly fee for counseling services
8 provided to a parent or a prospective adoptive parent by a
9 psychologist licensed under chapter 490 or a clinical social
10 worker, marriage and family therapist, or mental health
11 counselor licensed under chapter 491, or a counselor employed
12 by an adoption entity accredited by the Council on
13 Accreditation of Services for Children and Families to provide
14 pregnancy counseling and supportive services.
15 (2) Prior approval of the court is not required until
16 the cumulative total of amounts permitted under subsection (1)
17 exceeds:
18 (a) \$2,500 in legal or other fees;
19 (b) \$500 in court costs; or
20 (c) \$3,000 in expenditures.
21 (3) Any fees, costs, or expenditures not included in
22 subsection (1) or prohibited under subsection (4) require
23 court approval prior to payment and must be based on a finding
24 of extraordinary circumstances.
25 (4) The following fees, costs, and expenses are
26 prohibited:
27 (a) Any fee or expense that constitutes payment for
28 locating a minor for adoption.
29 (b) Cumulative expenses in excess of a total of \$500
30 related to the minor, the pregnancy, a parent, or adoption
31

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

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

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

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

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

1 Section 21. Section 63.102, Florida Statutes, is
2 amended to read:

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

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

19 (2) A petition for adoption or for a declaratory
20 statement as to the adoption contract shall be filed in the
21 county where the petition for termination of parental rights
22 was granted unless the court, in accordance with s. 47.122,
23 changes the venue to the county where the petitioner or
24 petitioners or the minor child resides or where the agency or
25 adoption entity with in which the minor child has been placed
26 is located.

27 (3) Except for adoptions involving placement of a
28 minor child with a relative within the third degree of
29 consanguinity, a petition for adoption in an adoption handled
30 by an adoption entity ~~intermediary~~ shall be filed within 30
31 working days after entry of the order terminating parental

1 ~~rights placement of a child with a parent seeking to adopt the~~
2 ~~child.~~ If no petition is filed within 30 days, any interested
3 party, including the state, may file an action challenging the
4 prospective adoptive parent's physical custody of the minor
5 ~~child.~~

6 (4) If the filing of the petition for adoption or for
7 a declaratory statement as to the adoption contract in the
8 county where the petitioner or minor child resides would tend
9 to endanger the privacy of the petitioner or minor child, the
10 petition for adoption may be filed in a different county,
11 provided the substantive rights of any person will not thereby
12 be affected.

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

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

21 (b) A contract for the payment of fees, costs, and
22 expenditures permitted under this chapter must be in writing,
23 and any person who enters into the contract has 3 business
24 days in which to cancel the contract. To cancel the contract,
25 the person must notify the adoption entity in writing by
26 certified United States mail, return receipt requested, no
27 later than 3 business days after signing the contract. For the
28 purposes of this subsection, the term "business day" means a
29 day on which the United States Postal Service accepts
30 certified mail for delivery. If the contract is canceled
31 within the first 3 business days, the person who cancels the

1 contract does not owe any legal, intermediary, or other fees,
2 but may be responsible for the adoption entity's actual costs
3 during that time.

4 (c) The court may grant prior approval only of fees
5 and expenditures permitted under s. 63.097. A prior approval
6 of prospective fees and costs does not create a presumption
7 that these items will subsequently be approved by the court
8 under s. 63.132. The court, under s. 63.132, may order an
9 adoption entity to refund any amount paid under this
10 subsection that is subsequently found by the court to be
11 greater than fees, costs, and expenses actually incurred.

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

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

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

31

1 Section 22. 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.

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

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

3 Section 23. Section 63.122, Florida Statutes, is
4 amended to read:

5 63.122 Notice of hearing on petition.--

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

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

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

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

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

30 ~~(b) The intermediary.~~

31

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

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

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

11 Section 24. Section 63.125, Florida Statutes, is
12 amended to read:

13 63.125 Final home investigation.--

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

28 (2) The department, the licensed child-placing agency,
29 or the professional that performs the investigation must file
30 a written report of the investigation with the court and the
31

1 petitioner within 90 days after the date the petition is
2 filed.

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

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

14 (5) The final home investigation must include:

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

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

21 (c) The family social and medical history as provided
22 in s. 63.082.

23 (d) Any other information relevant to the suitability
24 of the intended adoptive home.

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

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

29 63.132 Affidavit ~~Report~~ of expenditures and
30 receipts.--

31

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

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

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

22 (c) The clerk of the court shall forward a copy of the
23 affidavit to the department. The department must retain these
24 records for 5 years. Copies of affidavits received by the
25 department under this subsection must be provided upon the
26 request of any person. The department must redact all
27 identifying references to the minor, the parent, or the
28 adoptive parent from any affidavit released by the department,
29 as required by s. 63.162. The name of the adoption entity may
30 not be redacted. The intent of this paragraph is to create a
31

1 resource for adoptive parents and others wishing to obtain
2 information about the cost of adoption in this state.

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

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

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

7 3.~~(c)~~ The medical or hospital care received by the
8 mother or by the minor during the mother's prenatal care and
9 confinement.

10 4.~~(d)~~ The living expenses of the birth mother. The
11 living expenses must be documented in detail to apprise the
12 court of the exact expenses incurred.

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

17
18 The affidavit must state whether any of these expenses were or
19 are eligible to be paid for by collateral sources, including,
20 but not limited to, health insurance, Medicaid, Medicare, or
21 public assistance.

22 (2) The court may require such additional information
23 as is deemed necessary.

24 (3) The court must issue a separate order approving or
25 disapproving the fees, costs, and expenditures itemized in the
26 affidavit. The court may approve only fees, costs, and
27 expenditures allowed under s. 63.097. The court may reject in
28 whole or in part any fee, cost, or expenditure listed if the
29 court finds that the expense is:

30 (a) Contrary to this chapter;

31

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

3 (c) Not a reasonable fee or expense, considering the
4 requirements of this chapter and the totality of the
5 circumstances.

6 ~~(4)(3)~~ This section does not apply to an adoption by a
7 stepparent whose spouse is a ~~natural or adoptive~~ parent of the
8 minor child.

9 Section 26. Section 63.142, Florida Statutes, is
10 amended to read:

11 63.142 Hearing; judgment of adoption.--

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

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

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

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

22 (3) DISMISSAL.--

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

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

27 (4) JUDGMENT.--At the conclusion of the hearing, after
28 ~~when~~ the court determines that the date for a parent to file
29 an appeal of a valid judgment terminating that parent's
30 parental rights has passed and no appeal is pending ~~at~~
31 ~~necessary consents have been obtained~~ and that the adoption is

1 in the best interest of the person to be adopted, a judgment
2 of adoption shall be entered.

3 (a) A judgment terminating parental rights pending
4 adoption is voidable and any later judgment of adoption of
5 that minor is voidable if, upon the motion of a parent, the
6 court finds that any person knowingly gave false information
7 that prevented the parent from timely making known his or her
8 desire to assume parental responsibilities toward the minor or
9 meeting the requirements under this chapter to exercise his or
10 her parental rights. A motion under this paragraph must be
11 filed with the court that entered the original judgment. The
12 motion must be filed within a reasonable time, but not later
13 than 2 years after the date the judgment terminating parental
14 rights was entered.

15 (b) No later than 30 days after the filing of a motion
16 under this subsection, the court must conduct a preliminary
17 hearing to determine what contact, if any, shall be permitted
18 between a parent and the child pending resolution of the
19 motion. Such contact shall be considered only if it is
20 requested by a parent who has appeared at the hearing. If the
21 court orders contact between a parent and child, the order
22 must be issued in writing as expeditiously as possible and
23 must state with specificity any provisions regarding contact
24 with persons other than those with whom the child resides.

25 (c) At the preliminary hearing, the court, upon the
26 motion of any party or its own motion, may order scientific
27 testing to determine the paternity of the minor if the person
28 seeking to set aside the judgment is alleging to be the
29 child's father and that fact has not previously been
30 determined by legitimacy or scientific testing. The court may
31 order supervised visitation with a person for whom scientific

1 testing for paternity has been ordered. Such visitation shall
2 be conditioned upon the filing of those test results with the
3 court and such results establishing that person's paternity of
4 the minor.

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

9 Section 27. Section 63.152, Florida Statutes, is
10 amended to read:

11 63.152 Application for new birth record.--Within 30
12 days after entry of a judgment of adoption, the clerk of the
13 court, and in agency adoptions, any child-placing agency
14 licensed by the department, shall prepare a certified
15 statement of the entry for the state registrar of vital
16 statistics on a form provided by the registrar. The clerk of
17 the court must mail a copy of the form completed under this
18 section to the state registry of adoption information
19 maintained by the department. A new birth record containing
20 the necessary information supplied by the certificate shall be
21 issued by the registrar on application of the adopting parents
22 or the adopted person.

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

25 63.162 Hearings and records in adoption proceedings;
26 confidential nature.--

27 (2) All papers and records pertaining to the adoption,
28 including the original birth certificate, whether part of the
29 permanent record of the court or a file in the office of an
30 adoption entity department, ~~in a licensed child-placing~~
31 ~~agency, or in the office of an intermediary~~ are confidential

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

24 Section 29. Section 63.165, Florida Statutes, is
25 amended to read:

26 63.165 State registry of adoption information; duty to
27 inform and explain.--Notwithstanding any other law to the
28 contrary, the department shall maintain a registry with the
29 last known names and addresses of an adoptee and his or her
30 ~~natural~~ parents whose consent was required under s. 63.062,
31 and adoptive parents; the certified statement of the final

1 decree of adoption provided by the clerk of the court under s.
2 63.152;and any other identifying information that ~~which~~ the
3 adoptee, ~~natural~~ parents whose consent was required under s.
4 63.062, or adoptive parents desire to include in the registry.
5 The department shall maintain the registry records for the
6 time required by rules adopted by the department in accordance
7 with this chapter or for 99 years, whichever period is
8 greater.The registry shall be open with respect to all
9 adoptions in the state, regardless of when they took place.
10 The registry shall be available for those persons choosing to
11 enter information therein, but no one shall be required to do
12 so.

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

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

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

16 Section 30. Section 63.182, Florida Statutes, is
17 amended to read:

18 (Substantial rewording of section. See
19 s. 63.182, F.S., for present text.)

20 63.182 Statute of repose.--An action or proceeding of
21 any kind to vacate, set aside, or otherwise nullify a judgment
22 of adoption or an underlying judgment terminating parental
23 rights on any ground, with the exception of fraud or duress
24 which must be brought within 2 years, must be filed within 1
25 year after entry of the judgment terminating parental rights.

26 Section 31. Subsection (2) of section 63.202, Florida
27 Statutes, is amended to read:

28 63.202 Authority to license; adoption of rules.--

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

1 Section 32. Section 63.207, Florida Statutes, is
2 amended to read:

3 63.207 Out-of-state placement.--

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

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

11 (b) Place or attempt to place a minor child for the
12 purpose of adoption with a family who primarily lives and
13 works outside Florida in another state. ~~An intermediary may~~
14 ~~place or attempt to place a child for adoption in another~~
15 ~~state only if the child is a special needs child as that term~~
16 ~~is defined in s. 409.166. If an adoption entity intermediary~~
17 ~~is acting under this subsection, the adoption entity must~~
18 ~~intermediary shall~~ file a petition for declaratory statement
19 pursuant to s. 63.102 for prior approval of fees and costs.
20 The court shall review the costs pursuant to s. 63.097. The
21 petition for declaratory statement must be converted to a
22 petition for an adoption upon placement of the minor child in
23 the home. The circuit court in this state must retain
24 jurisdiction over the matter until the adoption becomes final.
25 The prospective adoptive parents must come to this state to
26 have the adoption finalized. Violation of the order subjects
27 the adoption entity intermediary to contempt of court and to
28 the penalties provided in s. 63.212.

29 (2) An adoption entity intermediary may not counsel a
30 birth mother to leave the state for the purpose of giving
31 birth to a child outside the state in order to secure a fee in

1 excess of that permitted under s. 63.097 when it is the
2 intention that the child is to be placed for adoption outside
3 the state.

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

7 Section 33. Section 63.212, Florida Statutes, is
8 amended to read:

9 63.212 Prohibited acts; penalties for violation.--

10 (1) It is unlawful for any person:

11 (a) ~~Except the department, an intermediary, or an~~
12 ~~agency, To place or attempt to place a minor child for~~
13 adoption with a person who primarily lives and works outside
14 this state unless the minor child is placed with a relative
15 within the third degree or with a stepparent. ~~An intermediary~~
16 ~~may place or attempt to place a special needs child for~~
17 ~~adoption with a person who primarily lives and works outside~~
18 ~~this state only if the intermediary has a declaratory~~
19 ~~statement from the court establishing the fees to be paid.~~
20 This requirement does not apply if the minor child is placed
21 by an adoption entity in accordance with s. 63.207 ~~with a~~
22 ~~relative within the third degree or with a stepparent.~~

23 (b) ~~Except the department, an intermediary, or an~~
24 ~~agency, to place or attempt to place a child for adoption with~~
25 ~~a family whose primary residence and place of employment is in~~
26 ~~another state unless the child is placed with a relative~~
27 ~~within the third degree or with a stepparent. An intermediary~~
28 ~~may place or attempt to place a special needs child for~~
29 ~~adoption with a family whose primary residence and place of~~
30 ~~employment is in another state only if the intermediary has a~~
31 ~~declaratory statement from the court establishing the fees to~~

1 ~~be paid. This requirement does not apply if the child is~~
2 ~~placed with a relative within the third degree or with a~~
3 ~~stepparent.~~

4 ~~(b)(c)~~ Except an adoption entity ~~the Department of~~
5 ~~Children and Family Services, an agency, or an intermediary,~~
6 to place or attempt to place within the state a minor child
7 for adoption unless the minor child is placed with a relative
8 within the third degree or with a stepparent. This
9 prohibition, however, does not apply to a person who is
10 placing or attempting to place a minor child for the purpose
11 of adoption with the adoption entity ~~Department of Children~~
12 ~~and Family Services or an agency or through an intermediary.~~

13 ~~(c)(d)~~ To sell or surrender, or to arrange for the
14 sale or surrender of, a minor child to another person for
15 money or anything of value or to receive such minor child for
16 such payment or thing of value. If a minor child is being
17 adopted by a relative within the third degree or by a
18 stepparent, or is being adopted through an adoption entity,
19 this paragraph does not prohibit ~~the Department of Children~~
20 ~~and Family Services, an agency, or an intermediary, nothing~~
21 ~~herein shall be construed as prohibiting~~ the person who is
22 contemplating adopting the child from paying, under ss. 63.097
23 and 63.132, the actual prenatal care and living expenses of
24 the mother of the child to be adopted, or nor from paying,
25 under ss. 63.097 and 63.132, the actual living and medical
26 expenses of such mother for a reasonable time, not to exceed 6
27 weeks, if medical needs require such support, after the birth
28 of the minor child.

29 ~~(d)(e)~~ Having the rights and duties of a parent with
30 respect to the care and custody of a minor to assign or
31 transfer such parental rights for the purpose of, incidental

1 to, or otherwise connected with, selling or offering to sell
2 such rights and duties.

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

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

10 (g)~~(h)~~ Except an adoption entity ~~the Department of~~
11 ~~Children and Family Services, an agency, or an intermediary~~,
12 to advertise or offer to the public, in any way, by any medium
13 whatever that a minor child ~~is~~ available for adoption or that
14 a minor child ~~is~~ sought for adoption; and, further, it is
15 unlawful for any person to publish or broadcast any such
16 advertisement without including a Florida license number of
17 the agency or~~or~~ ~~attorney, or physician~~ placing the
18 advertisement.

19 (h)~~(i)~~ To contract for the purchase, sale, or transfer
20 of custody or parental rights in connection with any child, ~~or~~
21 in connection with any fetus yet unborn, or in connection with
22 any fetus identified in any way but not yet conceived, in
23 return for any valuable consideration. Any such contract is
24 void and unenforceable as against the public policy of this
25 state. However, fees, costs, and other incidental payments
26 made in accordance with statutory provisions for adoption,
27 foster care, and child welfare are permitted, and a person may
28 agree to pay expenses in connection with a preplanned adoption
29 agreement as specified below, but the payment of such expenses
30 may not be conditioned upon the transfer of parental rights.
31 Each petition for adoption which is filed in connection with a

1 preplanned adoption agreement must clearly identify the
2 adoption as a preplanned adoption arrangement and must include
3 a copy of the preplanned adoption agreement for review by the
4 court.

5 1. Individuals may enter into a preplanned adoption
6 arrangement as specified herein, but such arrangement shall
7 not in any way:

8 a. Effect final transfer of custody of a child or
9 final adoption of a child, without review and approval of the
10 department and the court, and without compliance with other
11 applicable provisions of law.

12 b. Constitute consent of a mother to place her child
13 for adoption until 7 days following birth, and unless the
14 court making the custody determination or approving the
15 adoption determines that the mother was aware of her right to
16 rescind within the 7-day period following birth but chose not
17 to rescind such consent.

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

21 a. That the volunteer mother agrees to become pregnant
22 by the fertility technique specified in the agreement, to bear
23 the child, and to terminate any parental rights and
24 responsibilities to the child she might have through a written
25 consent executed at the same time as the preplanned adoption
26 agreement, subject to a right of rescission by the volunteer
27 mother any time within 7 days after the birth of the child.

28 b. That the volunteer mother agrees to submit to
29 reasonable medical evaluation and treatment and to adhere to
30 reasonable medical instructions about her prenatal health.

31

1 c. That the volunteer mother acknowledges that she is
2 aware that she will assume parental rights and
3 responsibilities for the child born to her as otherwise
4 provided by law for a mother, if the intended father and
5 intended mother terminate the agreement before final transfer
6 of custody is completed, or if a court determines that a
7 parent clearly specified by the preplanned adoption agreement
8 to be the biological parent is not the biological parent, or
9 if the preplanned adoption is not approved by the court
10 pursuant to the Florida Adoption Act.

11 d. That an intended father who is also the biological
12 father acknowledges that he is aware that he will assume
13 parental rights and responsibilities for the child as
14 otherwise provided by law for a father, if the agreement is
15 terminated for any reason by any party before final transfer
16 of custody is completed or if the planned adoption is not
17 approved by the court pursuant to the Florida Adoption Act.

18 e. That the intended father and intended mother
19 acknowledge that they may not receive custody or the parental
20 rights under the agreement if the volunteer mother terminates
21 the agreement or if the volunteer mother rescinds her consent
22 to place her child for adoption within 7 days after birth.

23 f. That the intended father and intended mother may
24 agree to pay all reasonable legal, medical, psychological, or
25 psychiatric expenses of the volunteer mother related to the
26 preplanned adoption arrangement, and may agree to pay the
27 reasonable living expenses of the volunteer mother. No other
28 compensation, whether in cash or in kind, shall be made
29 pursuant to a preplanned adoption arrangement.

30 g. That the intended father and intended mother agree
31 to accept custody of and to assert full parental rights and

1 responsibilities for the child immediately upon the child's
2 birth, regardless of any impairment to the child.

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

7 i. That the agreement may be terminated at any time by
8 any of the parties.

9 3. A preplanned adoption agreement shall not contain
10 any provision:

11 a. To reduce any amount paid to the volunteer mother
12 if the child is stillborn or is born alive but impaired, or to
13 provide for the payment of a supplement or bonus for any
14 reason.

15 b. Requiring the termination of the volunteer mother's
16 pregnancy.

17 4. An attorney who represents an intended father and
18 intended mother or any other attorney with whom that attorney
19 is associated shall not represent simultaneously a female who
20 is or proposes to be a volunteer mother in any matter relating
21 to a preplanned adoption agreement or preplanned adoption
22 arrangement.

23 5. Payment to agents, finders, and intermediaries,
24 including attorneys and physicians, as a finder's fee for
25 finding volunteer mothers or matching a volunteer mother and
26 intended father and intended mother is prohibited. Doctors,
27 psychologists, attorneys, and other professionals may receive
28 reasonable compensation for their professional services, such
29 as providing medical services and procedures, legal advice in
30 structuring and negotiating a preplanned adoption agreement,
31 or counseling.

- 1 6. As used in this paragraph, the term:
- 2 a. "Blood and tissue typing tests" include, but are
3 not limited to, tests of red cell antigens, red cell
4 isoenzymes, human leukocyte antigens, and serum proteins.
- 5 b. "Child" means the child or children conceived by
6 means of an insemination that is part of a preplanned adoption
7 arrangement.
- 8 c. "Fertility technique" means artificial
9 embryonation, artificial insemination, whether in vivo or in
10 vitro, egg donation, or embryo adoption.
- 11 d. "Intended father" means a male who, as evidenced by
12 a preplanned adoption agreement, intends to have the parental
13 rights and responsibilities for a child conceived through a
14 fertility technique, regardless of whether the child is
15 biologically related to the male.
- 16 e. "Intended mother" means a female who, as evidenced
17 by a preplanned adoption agreement, intends to have the
18 parental rights and responsibilities for a child conceived
19 through a fertility technique, regardless of whether the child
20 is biologically related to the female.
- 21 f. "Parties" means the intended father and intended
22 mother, the volunteer mother and her husband, if she has a
23 husband, who are all parties to the preplanned adoption
24 agreement.
- 25 g. "Preplanned adoption agreement" means a written
26 agreement among the parties that specifies the intent of the
27 parties as to their rights and responsibilities in the
28 preplanned adoption arrangement, consistent with the
29 provisions of this act.
- 30 h. "Preplanned adoption arrangement" means the
31 arrangement through which the parties enter into an agreement

1 for the volunteer mother to bear the child, for payment by the
2 intended father and intended mother of the expenses allowed by
3 this act, for the intended father and intended mother to
4 assert full parental rights and responsibilities to the child
5 if consent to adoption is not rescinded after birth by the
6 volunteer mother, and for the volunteer mother to terminate,
7 subject to a right of rescission, in favor of the intended
8 father and intended mother all her parental rights and
9 responsibilities to the child.

10 i. "Volunteer mother" means a female person at least
11 18 years of age who voluntarily agrees, subject to a right of
12 rescission, that if she should become pregnant pursuant to a
13 preplanned adoption arrangement, she will terminate in favor
14 of the intended father and intended mother her parental rights
15 and responsibilities to the child.

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

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

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

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

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

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

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

21 Section 34. Section 63.219, Florida Statutes, is
22 amended to read:

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

28 Section 35. Paragraph (c) of subsection (1) and
29 paragraph (c) of subsection (2) of section 63.301, Florida
30 Statutes, are amended to read:

31 63.301 Advisory council on adoption.--

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

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

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

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

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

19 Section 36. Subsection (49) of section 39.01, Florida
20 Statutes, 1998 Supplement, is amended to read:

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

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

1 Section 37. Subsection (41) of section 984.03, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 984.03 Definitions.--When used in this chapter, the
4 term:

5 (41) "Parent" means a woman who gives birth to a child
6 and a man whose consent to the adoption of the child would be
7 required under s. 63.062(1)~~(b)~~. If a child has been legally
8 adopted, the term "parent" means the adoptive mother or father
9 of the child. The term does not include an individual whose
10 parental relationship to the child has been legally
11 terminated, or an alleged or prospective parent, unless the
12 parental status falls within the terms of either s. 39.503(1)
13 or s. 63.062(1)~~(b)~~.

14 Section 38. Subsection (42) of section 985.03, Florida
15 Statutes, 1998 Supplement, is amended to read:

16 985.03 Definitions.--When used in this chapter, the
17 term:

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

27 Section 39. Section 63.072, Florida Statutes, is
28 repealed.

29 Section 40. Any petition for adoption filed before
30 October 1, 1999, shall be governed by the law in effect at the
31 time the petition was filed.

1 Section 41. This act shall take effect October 1,
2 1999.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31