

Bill No. CS for CS for SB 2

Amendment No.

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Campbell moved the following amendment:

Senate Amendment

On page 41, line 1, through page 47, line 20, delete those lines

and insert:

5. Under section 63.082, Florida Statutes, if the minor is not placed for adoption with the prospective adoptive parent upon release from the hospital or birth center following birth, a 3-day revocation period applies during which consent may be withdrawn for any reason by notifying the adoption entity in writing. In order to withdraw consent, the written withdrawal of consent must be mailed at a United States Post Office no later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. For

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1 purposes of mailing the withdrawal of consent,
 2 the term "business day" means any day on which
 3 the United States Postal Service accepts
 4 certified mail for delivery. The letter must be
 5 sent by certified United States mail, return
 6 receipt requested. Postal costs must be paid at
 7 the time of mailing and the receipt should be
 8 retained as proof that consent was withdrawn in
 9 a timely manner.

10 6. Under section 63.082, Florida
 11 Statutes, and notwithstanding the revocation
 12 period, the consent may be withdrawn at any
 13 time prior to the placement of the child with
 14 the prospective adoptive parent, by notifying
 15 the adoption entity in writing by certified
 16 United States mail, return receipt requested.

17 7. Under section 63.082, Florida
 18 Statutes, if an adoption entity timely receives
 19 written notice from a person of that person's
 20 desire to withdraw consent, the adoption entity
 21 must contact the prospective adoptive parent to
 22 arrange a time certain to regain physical
 23 custody of the child. Absent a court order for
 24 continued placement of the child entered under
 25 section 63.082, Florida Statutes, the adoption
 26 entity must return the minor within 3 days
 27 after notification of the withdrawal of consent
 28 to the physical custody of the person
 29 withdrawing consent. After the revocation
 30 period for withdrawal of consent ends, or after
 31 the placement of the child with prospective

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1 adoptive parent, whichever occurs later, the
2 consent may be withdrawn only if the court
3 finds that the consent was obtained by fraud or
4 under duress.

5 8. Under section 63.082, Florida
6 Statutes, an affidavit of nonpaternity, once
7 executed, may be withdrawn only if the court
8 finds that it was obtained by fraud or under
9 duress.

10 9. Under section 63.082, Florida
11 Statutes, a person who signs a consent to
12 adoption or an affidavit of nonpaternity must
13 be given reasonable notice of his or her right
14 to select a person who does not have an
15 employment, professional, or personal
16 relationship with the adoption entity or the
17 prospective adoptive parents to be present when
18 the consent or affidavit is executed and to
19 sign the consent or affidavit as a witness.

20 10. Under section 63.088, Florida
21 Statutes, specific and extensive efforts are
22 required by law to attempt to obtain the
23 consents required under section 63.062, Florida
24 Statutes. If these efforts are unsuccessful,
25 the court may not enter a judgment terminating
26 parental rights pending adoption until certain
27 requirements have been met.

28 11. Under Florida law, an intermediary
29 may represent the legal interests of only the
30 prospective adoptive parents. Each person whose
31 consent to an adoption is required under

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1 section 63.062, Florida Statutes, is entitled
2 to seek independent legal advice and
3 representation before signing any document or
4 surrendering parental rights.

5 12. Under section 63.182, Florida
6 Statutes, an action or proceeding of any kind
7 to vacate, set aside, or otherwise nullify a
8 judgment of adoption or an underlying judgment
9 terminating parental rights pending adoption,
10 on any ground, including duress but excluding
11 fraud, must be filed within 1 year after entry
12 of the judgment terminating parental rights
13 pending adoption. Such an action or proceeding
14 for fraud must be filed within 2 years after
15 entry of the judgment terminating parental
16 rights.

17 13. Under section 63.089, Florida
18 Statutes, a judgment terminating parental
19 rights pending adoption is voidable and any
20 later judgment of adoption of that minor is
21 voidable if, upon the motion of a parent, the
22 court finds that any person knowingly gave
23 false information that prevented the parent
24 from timely making known his or her desire to
25 assume parental responsibilities toward the
26 minor or to exercise his or her parental
27 rights. The motion must be filed with the court
28 that originally entered the judgment. The
29 motion must be filed within a reasonable time,
30 but not later than 2 years after the date the
31 judgment to which the motion is directed was

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1 entered.

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

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

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

26 17. Counseling services may be helpful
27 while making a parenting decision. Consult the
28 yellow pages of the telephone directory.

29 18. Medical and social services support
30 is available if the parent wishes to retain
31 parental rights and responsibilities. Consult

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adoption entity. The following fees, costs, and expenses are prohibited:

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

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

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

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

21. Under section 63.132, Florida Statutes, the adoption entity and the prospective adoptive parents must sign and file with the court a written statement under oath listing all the fees, expenses, and costs made, or agreed to be made, by or on behalf of the prospective adoptive parents and any adoption entity in connection with the adoption. The affidavit must state whether any of the expenses were eligible to be paid for by any other source.