

By the Committee on Judiciary and Senators Campbell, Rossin, Diaz-Balart, Gutman, Clary, Bronson, Lee, Childers, Casas and Cowin

308-663A-99

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 39.801, F.S.; conforming a provision to
10 reference great-grandparent's priority to
11 adopt; amending s. 39.812, F.S.; providing
12 additional requirements for a petition for
13 adoption; prohibiting filing such petition
14 until the order terminating parental rights is
15 final; amending s. 63.022, F.S.; revising
16 legislative intent with respect to adoptions;
17 amending s. 63.032, F.S.; revising definitions;
18 defining "adoption entity," "legal custody,"
19 "parent," and "relative"; creating s. 63.037,
20 F.S.; exempting certain provisions from
21 adoption proceedings initiated under ch. 39,
22 F.S.; creating s. 63.038, F.S.; providing
23 criminal penalties for committing certain
24 fraudulent acts; providing for civil action and
25 damages; creating s. 63.039, F.S.; providing
26 duties of an adoption entity to prospective
27 adoptive parents; providing sanctions and an
28 award of attorney's fees under certain
29 circumstances; amending s. 63.0425, F.S.;
30 conforming provisions relating to grandparent's
31 right to adopt and adding great-grandparent's

1 priority to adopt; amending s. 63.052, F.S.;
2 providing for placement of a minor pending
3 adoption; specifying the jurisdiction of the
4 court over a minor placed for adoption;
5 amending s. 63.062, F.S.; specifying additional
6 persons who must consent to an adoption,
7 execute an affidavit of nonpaternity, or
8 receive notice of proceedings to terminate
9 parental rights; providing for form and content
10 of affidavit of nonpaternity; providing for
11 notice of the right to select a witness;
12 amending s. 63.082, F.S.; revising requirements
13 and form for executing a consent to an
14 adoption; making such requirements applicable
15 to affidavit of nonpaternity; providing a
16 revocation period and requirements for
17 withdrawing consent; providing additional
18 disclosure requirements; revising requisite
19 history form to include social history;
20 amending s. 63.085, F.S.; specifying
21 information that must be disclosed to persons
22 seeking to adopt a minor and to the parents;
23 creating s. 63.087, F.S.; requiring that a
24 separate proceeding be conducted by the court
25 to determine whether a parent's parental rights
26 should be terminated; providing for rules,
27 jurisdiction, and venue for such proceedings;
28 providing requirements for the petition and
29 hearing; creating s. 63.088, F.S.; providing
30 diligent search and court inquiry requirements
31 for identifying and locating a person who is

1 required to consent to an adoption or receive
2 notice of proceedings to terminate parental
3 rights; providing notice requirements including
4 notice by constructive service; providing that
5 failure to respond or appear constitutes
6 grounds to terminate parental rights pending
7 adoption; creating s. 63.089, F.S.; providing
8 hearing procedures for proceedings to terminate
9 parental rights pending adoption; specifying
10 grounds upon which parental rights may be
11 terminated; providing for finding of
12 abandonment; providing for dismissal of
13 petition procedures; providing for
14 post-judgment relief; providing for
15 confidentiality of records; amending s. 63.092,
16 F.S.; providing requirements in an at-risk
17 placement before termination of parental
18 rights; amending s. 63.097, F.S.; revising fee
19 requirements to provide for allowable and
20 prohibited fees and costs; amending s. 63.102,
21 F.S.; revising requirements for filing a
22 petition for adoption; providing requirements
23 for prior approval of fees and costs; revising
24 requirements for declaratory statement as to
25 adoption contract; amending s. 63.112, F.S.;
26 revising requirements for form and content of a
27 petition for adoption; amending s. 63.122,
28 F.S.; revising the time requirements for
29 hearing a petition for adoption; amending s.
30 63.125, F.S.; conforming provisions relating to
31 the final home investigation; amending s.

1 63.132, F.S.; revising requirements for
2 affidavit of expenditures and receipts;
3 providing for retention and availability of
4 affidavit by the Department of Children and
5 Family Services; requiring separate court order
6 approving fees, costs, and expenditures;
7 amending s. 63.142, F.S.; specifying
8 circumstances under which a judgment
9 terminating parental rights pending adoption is
10 voidable; providing for an evidentiary hearing
11 to determine the minor's placement following a
12 motion to void such a judgment; amending s.
13 63.152, F.S.; requiring that the clerk of the
14 court mail a copy of a new birth record to the
15 state registry of adoption information;
16 amending s. 63.162, F.S.; conforming provisions
17 relating to confidential records of adoption
18 proceedings; amending s. 63.165, F.S.;
19 requiring that a copy of the certified
20 statement of final decree of adoption be
21 included in the state registry of adoption
22 information; requiring that the Department of
23 Children and Family Services maintain such
24 information for a specified period; amending s.
25 63.182, F.S.; providing a 1-year statute of
26 repose for all actions to set aside or vacate a
27 judgment of adoption or a judgment terminating
28 parental rights pending adoption; amending s.
29 63.202, F.S.; conforming provisions relating to
30 agencies authorized to place minors for
31 adoption; amending s. 63.207, F.S.; revising

1 provisions that limit the placement of a minor
2 in another state for adoption; amending s.
3 63.212, F.S.; revising provisions relating to
4 prohibitions and penalties with respect to
5 adoptions; amending s. 63.219, F.S.; conforming
6 provisions relating to sanctions; amending s.
7 63.301, F.S.; revising membership of an
8 advisory council on adoption to include a
9 child-caring agency registered under s.
10 409.176, F.S.; amending ss. 39.01, 984.03, and
11 985.03, F.S.; correcting cross-references;
12 repealing s. 63.072, F.S., relating to persons
13 who may waive required consent to an adoption;
14 requiring that a petition for adoption be
15 governed by the law in effect at the time the
16 petition is filed; providing an effective date.

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

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20 Section 1. Section 39.703, Florida Statutes, 1998
21 Supplement, is amended to read:

22 39.703 Initiation of termination of parental rights
23 proceedings; judicial review.--

24 (1) If, in preparation for any judicial review hearing
25 under this chapter, it is the opinion of the social service
26 agency that the parents of the child have not complied with
27 their responsibilities as specified in the written case plan
28 although able to do so, the department ~~social service agency~~
29 shall state its intent to initiate proceedings to terminate
30 parental rights, unless the social service agency can
31 demonstrate to the court that such a recommendation would not

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

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

1 rights proceedings at the time of the 12-month judicial review
2 or within 30 days after such review does not prohibit
3 initiating termination of parental rights proceedings at any
4 other time.

5 Section 2. Paragraph (a) of subsection (3) of section
6 39.801, Florida Statutes, 1998 Supplement, is amended to read:

7 39.801 Procedures and jurisdiction; notice; service of
8 process.--

9 (3) Before the court may terminate parental rights, in
10 addition to the other requirements set forth in this part, the
11 following requirements must be met:

12 (a) Notice of the date, time, and place of the
13 advisory hearing for the petition to terminate parental rights
14 and a copy of the petition must be personally served upon the
15 following persons, specifically notifying them that a petition
16 has been filed:

- 17 1. The parents of the child.
- 18 2. The caregivers or legal custodians of the child.
- 19 3. If the parents who would be entitled to notice are
20 dead or unknown, a living relative of the child, unless upon
21 diligent search and inquiry no such relative can be found.
- 22 4. Any person who has physical custody of the child.
- 23 5. Any grandparent or great-grandparent entitled to
24 priority for adoption under s. 63.0425.
- 25 6. Any prospective parent who has been identified
26 under s. 39.503 or s. 39.803.
- 27 7. The guardian ad litem for the child or the
28 representative of the guardian ad litem program, if the
29 program has been appointed.

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1 The document containing the notice to respond or appear must
2 contain, in type at least as large as the type in the balance
3 of the document, the following or substantially similar
4 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY
5 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
6 RIGHTS OF THIS CHILD (OR CHILDREN)."

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

9 39.802 Petition for termination of parental rights;
10 filing; elements.--

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

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

23 Section 4. Subsection (1) of section 39.806, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 39.806 Grounds for termination of parental rights.--

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

1 (a) When the parent or parents voluntarily executed a
2 written surrender of the child and consented to the entry of
3 an order giving custody of the child to the department ~~or to a~~
4 ~~licensed child-placing agency~~ for subsequent adoption and the
5 department ~~or licensed child-placing agency~~ is willing to
6 accept custody of the child.

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

10 2. The surrender and consent may be withdrawn after
11 acceptance by the department ~~or licensed child-placing agency~~
12 only after a finding by the court that the surrender and
13 consent were obtained by fraud or duress.

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

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

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

28 1. The period of time for which the parent is expected
29 to be incarcerated will constitute a substantial portion of
30 the period of time before the child will attain the age of 18
31 years;

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

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

22 (e) A petition for termination of parental rights may
23 also be filed when a child has been adjudicated dependent, a
24 case plan has been filed with the court, and the child
25 continues to be abused, neglected, or abandoned by the
26 parents. In this case, the failure of the parents to
27 substantially comply for a period of 12 months after an
28 adjudication of the child as a dependent child constitutes
29 evidence of continuing abuse, neglect, or abandonment unless
30 the failure to substantially comply with the case plan was due
31 either to the lack of financial resources of the parents or to

1 the failure of the department to make reasonable efforts to
2 reunify the family. Such 12-month period may begin to run only
3 after the entry of a disposition order placing the custody of
4 the child with the department or a person other than the
5 parent and the approval by the court of a case plan with a
6 goal of reunification with the parent.

7 (f) When the parent or parents engaged in egregious
8 conduct or had the opportunity and capability to prevent and
9 knowingly failed to prevent egregious conduct that threatens
10 the life, safety, or physical, mental, or emotional health of
11 the child or the child's sibling.

12 1. As used in this subsection, the term "sibling"
13 means another child who resides with or is cared for by the
14 parent or parents regardless of whether the child is related
15 legally or by consanguinity.

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

23 (g) When the parent or parents have subjected the
24 child to aggravated child abuse as defined in s. 827.03,
25 sexual battery or sexual abuse as defined in s. 39.01, or
26 chronic abuse.

27 (h) When the parent or parents have committed murder
28 or voluntary manslaughter of another child of the parent, or a
29 felony assault that results in serious bodily injury to the
30 child or another child of the parent, or aided or abetted,
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1 attempted, conspired, or solicited to commit such a murder or
2 voluntary manslaughter or felony assault.

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

5 Section 5. Subsections (2) and (8) of section 39.811,
6 Florida Statutes, 1998 Supplement, are amended to read:

7 39.811 Powers of disposition; order of disposition.--

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

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

28 Section 6. Section 39.812, Florida Statutes, 1998
29 Supplement, is amended to read:

30 39.812 Postdisposition relief; petition for
31 adoption.--

1 (1) ~~If A licensed child placing agency or the~~
2 department ~~which~~ is given custody of a child for subsequent
3 adoption in accordance with this chapter, the department may
4 place the child with an agency as defined in s. 63.032, with a
5 child-caring agency registered under s. 409.176, or in a
6 family home for prospective subsequent adoption., ~~and the~~
7 ~~licensed child-placing agency or~~ The department may thereafter
8 become a party to any proceeding for the legal adoption of the
9 child and appear in any court where the adoption proceeding is
10 pending and consent to the adoption, ~~and~~ that consent alone
11 shall in all cases be sufficient.

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

27 (3) The entry of the custody order to the department
28 does or ~~licensed child-placing agency shall~~ not entitle the
29 ~~licensed child-placing agency or~~ department to guardianship of
30 the estate or property of the child, but the ~~licensed~~

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1 ~~child placing agency or~~ department shall be the guardian of
2 the person of the child.

3 (4) The court shall retain jurisdiction over any child
4 placed in the custody of ~~for whom custody is given to a~~
5 ~~licensed child placing agency or to~~ the department until the
6 child is adopted. After custody of a child for subsequent
7 adoption has been given to ~~an agency or~~ the department, the
8 court has jurisdiction for the purpose of reviewing the status
9 of the child and the progress being made toward permanent
10 adoptive placement. As part of this continuing jurisdiction,
11 for good cause shown by the guardian ad litem for the child,
12 the court may review the appropriateness of the adoptive
13 placement of the child.

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

28 Section 7. Section 63.022, Florida Statutes, 1998
29 Supplement, is amended to read:

30 63.022 Legislative intent.--

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

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

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

9 (b) The required persons consent to the adoption or
10 the parent-child relationship is terminated by judgment of the
11 court.

12 (c) The required social studies are completed and the
13 court considers the reports of these studies prior to judgment
14 on adoption petitions.

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

17 (e) A sufficient period of time elapses during which
18 the minor ~~child~~ has lived within the proposed adoptive home
19 under the guidance of the department, a child-caring agency
20 registered under s. 409.176, or a licensed child-placing
21 agency.

22 (f) All expenditures by adoption entities
23 ~~intermediaries~~ placing, and persons independently adopting, a
24 minor are reported to the court and become a permanent record
25 in the file of the adoption proceedings.

26 (g) Social and medical information concerning the
27 minor ~~child~~ and the ~~birth~~ parents is furnished by the ~~birth~~
28 parent when available and filed with the court before a final
29 hearing on a petition to terminate parental rights pending
30 adoption ~~consent to the adoption when a minor is placed by an~~
31 ~~intermediary~~.

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

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

6 (j) The records of all proceedings concerning custody
7 and adoption of a minor ~~children~~ are confidential and exempt
8 from ~~the provisions of~~ s. 119.07(1), except as provided in s.
9 63.162.

10 (k) The ~~birth~~ parent, the prospective adoptive parent,
11 and the minor ~~child~~ receive the same or similar safeguards,
12 guidance, counseling, and supervision in all adoptions ~~an~~
13 ~~intermediary adoption as they receive in an agency or~~
14 ~~department adoption.~~

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

19 (m) In dependency cases initiated by the department,
20 where termination of parental rights occurs, and siblings are
21 separated despite diligent efforts of the department,
22 continuing postadoption communication or contact among the
23 siblings may be ordered by the court if found to be in the
24 best interests of the children.

25 Section 8. Section 63.032, Florida Statutes, is
26 amended to read:

27 63.032 Definitions.--As used in this chapter act,
28 ~~unless the context otherwise requires,~~ the term:

29 (1)~~(14)~~ "Abandoned" means a situation in which the
30 parent or person having legal custody ~~legal custodian~~ of a
31 child, while being able, makes no provision for the child's

1 support and makes no effort to communicate with the child,
2 which situation is sufficient to evince a willful rejection of
3 parental obligations. If, in the opinion of the court, the
4 efforts of such parent or person having legal custody of the
5 child ~~legal custodian~~ to support and communicate with the
6 child are only marginal efforts that do not evince a settled
7 purpose to assume all parental duties, the court may declare
8 the child to be abandoned. In making this decision, the court
9 may consider the conduct of a father towards the child's
10 mother during her pregnancy.

11 (2)~~(10)~~ "Adoption" means the act of creating the legal
12 relationship between parent and child where it did not exist,
13 thereby declaring the child to be legally the child of the
14 adoptive parents and their heir at law and entitled to all the
15 rights and privileges and subject to all the obligations of a
16 child born to such adoptive parents in lawful wedlock.

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

20 (4)~~(5)~~ "Adult" means a person who is not a minor.

21 (5)~~(7)~~ "Agency" means any child-placing agency
22 licensed by the department pursuant to s. 63.202 to place
23 minors for adoption.

24 (6)~~(2)~~ "Child" means a son or daughter, whether by
25 birth or adoption.

26 (7)~~(3)~~ "Court" means any circuit court of this state
27 and, when the context requires, the court of any state that is
28 empowered to grant petitions for adoption.

29 (8)~~(1)~~ "Department" means the Department of Children
30 and Family Services.

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1 (9)~~(8)~~ "Intermediary" means an attorney ~~or physician~~
2 who is licensed or authorized to practice in this state and
3 who has reported the intended placement of a minor for
4 adoption under s. 63.092 or, for the purpose of adoptive
5 placements of children from out of state with citizens of this
6 state, a child-placing agency licensed in another state that
7 is qualified by the department.

8 (10) "Legal custody" has the meaning ascribed in s.
9 39.01.

10 (11)~~(4)~~ "Minor" means a person under the age of 18
11 years.

12 (12) "Parent" has the same meaning ascribed in s.
13 39.01.

14 (13)~~(6)~~ "Person" includes a natural person,
15 corporation, government or governmental subdivision or agency,
16 business trust, estate, trust, partnership, or association,
17 and any other legal entity.

18 (14) "Relative" has the same meaning ascribed in s.
19 39.01.

20 (15)~~(9)~~ "To place" or "placement" means the process of
21 a person giving a child up for adoption and the prospective
22 parents receiving and adopting the child, and includes all
23 actions by any person or adoption entity ~~agency~~ participating
24 in the process.

25 (16)~~(13)~~ "Primarily lives and works outside Florida"
26 means anyone who does not meet the definition of "primary
27 residence and place of employment in Florida."

28 (17)~~(12)~~ "Primary residence and place of employment in
29 Florida" means a person lives and works in this state at least
30 6 months of the year and intends to do so for the foreseeable
31 future or military personnel who designate Florida as their

1 place of residence in accordance with the Soldiers' and
2 Sailors' Civil Relief Act of 1940 or employees of the United
3 States Department of State living in a foreign country who
4 designate Florida as their place of residence.

5 (18)~~(11)~~ "Suitability of the intended placement"
6 includes the fitness of the intended placement, with primary
7 consideration being given to the welfare of the child; the
8 fitness and capabilities of the adoptive parent or parents to
9 function as parent or parents for a particular child; any
10 familial relationship between the child and the prospective
11 placement;and the compatibility of the child with the home in
12 which the child is intended to be placed.

13 Section 9. Section 63.037, Florida Statutes, is
14 created to read:

15 63.037 Proceedings applicable to cases resulting from
16 a termination of parental rights under chapter 39.--A case in
17 which a minor becomes available for adoption after the
18 parental rights of each parent have been terminated by a
19 judgment entered pursuant to chapter 39 shall be governed by
20 s. 39.812 and this chapter. Adoption proceedings initiated
21 under chapter 39 are exempt from the following provisions of
22 this chapter: disclosure requirements for the adoption entity
23 provided in s. 63.085; general provisions governing
24 termination of parental rights pending adoption provided in s.
25 63.087; notice and service provisions governing termination of
26 parental rights pending adoption provided in s. 63.088; and
27 procedures for terminating parental rights pending adoption
28 provided in s. 63.089.

29 Section 10. Section 63.038, Florida Statutes, is
30 created to read:

31 63.038 Prohibited acts.--

1 (1) It is unlawful for a person under this chapter to:
2 (a) Knowingly and willfully provide false information;
3 (b) Knowingly withhold material information; or
4 (c) With the intent to defraud, accept benefits
5 related to the same pregnancy from more than one adoption
6 entity without disclosing that fact to each entity.

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

14 Section 11. Section 63.039, Florida Statutes, is
15 created to read:

16 63.039 Duty of adoption entity to prospective adoptive
17 parents; sanctions.--

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

25 (a) Provide written initial disclosure to the
26 prospective adoptive parent at the time and in the manner
27 required under s. 63.085(1).

28 (b) Provide written initial and postbirth disclosure
29 to the parent at the time and in the manner required under s.
30 63.085.

31

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

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

8 (e) Include in the petition to terminate parental
9 rights pending adoption all information required under s.
10 63.087(6)(e) and (f).

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

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

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

21 (2) An adoption entity that materially fails to meet a
22 duty specified in subsection (1) may be liable to the
23 prospective adoptive parents for all sums paid by the
24 prospective adoptive parents or on their behalf in
25 anticipation of or in connection with an adoption.

26 (3) If a court finds that a consent or an affidavit of
27 nonpaternity taken under this chapter was obtained by fraud or
28 duress attributable to the adoption entity, the court must
29 award all sums paid by the prospective adoptive parents or on
30 their behalf in anticipation of or in connection with the
31 adoption. The court may also award reasonable attorney's fees

1 and costs incurred by the prospective adoptive parents in
2 connection with the adoption and any litigation related to
3 placement or adoption of a minor. An award under this
4 subsection must be paid directly to the prospective adoptive
5 parents by the adoption entity or by any applicable insurance
6 carrier on behalf of the adoption entity.

7 (4) If a person whose consent to an adoption is
8 required under s. 63.062 prevails in an action to set aside a
9 consent to adoption, a judgment terminating parental rights
10 pending adoption, or a judgment of adoption, the court must
11 award a reasonable attorney's fee to the prevailing party. An
12 award under this subsection must be paid by the adoption
13 entity or by any applicable insurance carrier on behalf of the
14 adoption entity if the court finds that the acts or omissions
15 of the entity were the basis for the court's order granting
16 relief to the prevailing party.

17 (5) The court must provide to The Florida Bar any
18 order that imposes sanctions under this section against an
19 attorney acting as an adoption agency or as an intermediary.
20 The court must provide to the Department of Children and
21 Family Services any order that imposes sanctions under this
22 section against an agency. The order must be provided within
23 30 days after the date that the order was issued.

24 Section 12. Subsection (1) of section 63.0425, Florida
25 Statutes, is amended to read:

26 63.0425 Grandparent's and great-grandparent's right to
27 adopt.--

28 (1) When a child who has lived with a grandparent or
29 great-grandparent for at least 6 months is placed for
30 adoption, the adoption entity ~~agency or intermediary~~ handling
31 the adoption shall notify that grandparent or

1 great-grandparent of the impending adoption before the
2 petition for adoption is filed. If the grandparent or
3 great-grandparent petitions the court to adopt the child, the
4 court shall give first priority for adoption to that
5 grandparent or great-grandparent.

6 Section 13. Section 63.052, Florida Statutes, 1998
7 Supplement, is amended to read:

8 63.052 Guardians designated; proof of commitment.--

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

16 (2) For minors who have been voluntarily surrendered
17 to an intermediary through an execution of consent to
18 adoption, the intermediary shall be responsible for the minor
19 child until the time a court orders preliminary approval of
20 placement of the minor child in the prospective adoptive home,
21 at which time the prospective adoptive parents become
22 guardians pending finalization of adoption. Until a court has
23 terminated parental rights pending adoption and has ordered
24 preliminary approval of placement of the minor in the adoptive
25 home, the minor must be placed in the care of a relative as
26 defined in s. 39.01, in foster care, or in the care of a
27 prospective adoptive home. No minor shall be placed in a
28 prospective adoptive home until that home has received a
29 favorable preliminary home study by a licensed child-placing
30 agency, a licensed professional, or an agency, as provided in
31 s. 63.092, within 1 year before such placement in the

1 prospective home. Temporary placement in the prospective home
2 with the prospective adoptive parents does not give rise to a
3 presumption that the parental rights of the parents will
4 subsequently be terminated.

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

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

30 (4) If a minor ~~child~~ is voluntarily surrendered to an
31 intermediary for subsequent adoption and the adoption does not

1 become final within 180 days, the intermediary must report to
2 the court on the status of the minor child and the court may
3 at that time proceed under s. 39.701 or take action reasonably
4 necessary to protect the best interest of the minor child.

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

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

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

30 Section 14. Section 63.062, Florida Statutes, is
31 amended to read:

1 63.062 Persons required to consent to adoption;
2 affidavit of nonpaternity.--

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

9 (a) The mother of the minor.

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

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

13 2. The minor is his child by adoption; or;

14 3. The minor has been established by court proceeding
15 to be his child.

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

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

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

27 ~~2.5. He~~ Has provided, or has attempted to provide, the
28 child or the mother during her pregnancy with support in a
29 repetitive, customary manner; or;

30 3. Has been identified by the birth mother as a person
31 she has reason to believe may be the father of the minor in an

1 action to terminate parental rights pending adoption pursuant
2 to this chapter.

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

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

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

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

25 (4) An affidavit of nonpaternity must be in
26 substantially the following form:

27
28 AFFIDAVIT OF NONPATERNITY

29
30 1. I have personal knowledge of the facts
31 stated in this affidavit.

1 2. I have been told that has a
2 child. I shall not establish or claim paternity
3 for this child, whose name is ... and whose
4 date of birth is
5 3. The child referenced in this affidavit
6 was not conceived or born while the birth
7 mother was married to me. I AM NOT MARRIED TO
8 THE BIRTH MOTHER, nor do I intend to marry the
9 birth mother.
10 4. With respect to the child referenced
11 in this affidavit, I have not provided the
12 birth mother with child support or prebirth
13 support; I have not provided her with prenatal
14 care or assisted her with medical expenses; I
15 have not provided the birth mother or her child
16 or unborn child with support of any kind, nor
17 do I intend to do so.
18 5. I have no interest in assuming the
19 responsibilities of parenthood for this child.
20 I will not acknowledge in writing that I am the
21 father of this child nor institute court
22 proceedings to establish the child as mine.
23 6. I do not object to any decision or
24 arrangements makes regarding this child,
25 including adoption.
26 7. I have been told of my right to choose
27 a person who does not have an employment,
28 professional, or personal relationship with the
29 adoption entity or the prospective adoptive
30 parents to be present when this affidavit is
31 executed and to sign it as a witness.

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

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

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

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

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

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

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

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

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

5 Section 15. Section 63.082, Florida Statutes, is
6 amended to read:

7 63.082 Execution of consent to adoption or affidavit
8 of nonpaternity; family social and medical history; withdrawal
9 of consent.--

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

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

15 (b) If by an agency, by affidavit from its authorized
16 representative.

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

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

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

26 (3)(a) The department must provide a consent form and
27 a family social and medical history form to an adoption entity
28 that intermediary who intends to place a child for adoption.
29 ~~The Forms~~ containing, at a minimum, the same information as
30 the forms promulgated by the department ~~completed by the birth~~
31 ~~parents~~ must be attached to the petition to terminate parental

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

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

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

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

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

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

18 (d) The consent to adoption or the affidavit of
19 nonpaternity must be signed ~~child,~~ in the presence of two
20 witnesses, and be acknowledged before a notary public who is
21 not signing as one of the witnesses. The notary public must
22 legibly note on the consent or the affidavit the date and time
23 of execution. The witnesses' names must be typed or printed
24 underneath their signatures. The witnesses', ~~and their~~ home or
25 business addresses and social security numbers, driver's
26 license numbers, or state identification card numbers must be
27 included. The absence of a social security number, driver's
28 license number, or state identification card number shall not
29 be deemed to invalidate the consent. The person who signs the
30 consent or the affidavit has the right to have at least one of
31 the witnesses be an individual who does not have an

1 employment, professional, or personal relationship with the
2 adoption entity or the prospective adoptive parents. The
3 adoption entity must give reasonable notice to the person
4 signing the consent or affidavit of the right to select a
5 witness of his or her own choosing. The person who signs the
6 consent or affidavit must acknowledge in writing on the
7 consent or affidavit that such notice was given and indicate
8 the witness, if any, who was selected by the person signing
9 the consent or affidavit. The adoption entity must include its
10 name, address, and telephone number on the consent to adoption
11 or affidavit of nonpaternity.

12 (e) A consent to adoption must contain, in at least
13 16-point boldfaced type, an acknowledgment of the parent's
14 rights in substantially the following form:

15
16 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
17 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
18 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
19 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
20 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
21 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
22 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
23 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
24 OR WITNESSES YOU SELECTED, IF ANY.

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

- 29
30 1. CONSULT WITH AN ATTORNEY;
31 2. HOLD, CARE FOR, AND FEED THE CHILD;

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

1 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
2 CHILD. WHILE THE CONSENT IS VALID AND BINDING
3 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.
4 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
5 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
6 YOUR CONSENT FOR ANY REASON IF YOU DO IT WITHIN
7 3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE
8 CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE
9 BIRTH MOTHER'S DISCHARGE FROM A LICENSED
10 HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.
11
12 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
13 PERIOD, YOU MUST:
14 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
15 A LETTER, THAT YOU ARE WITHDRAWING YOUR
16 CONSENT.
17 2. MAIL THE LETTER AT A UNITED STATES
18 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
19 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
20 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE
21 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
22 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
23 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
24 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.
25 3. SEND THE LETTER BY CERTIFIED UNITED
26 STATES MAIL WITH RETURN RECEIPT REQUESTED.
27 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
28 THE LETTER.
29 5. KEEP THE CERTIFIED MAIL RECEIPT AS
30 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
31 MANNER.

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THE ADOPTION ENTITY YOU SHOULD NOTIFY IS:
...(name of adoption entity)..., ...(address of
adoption entity)..., ...(phone number of
adoption entity)....

ONCE THE REVOCATION PERIOD IS OVER, YOU MAY NOT
WITHDRAW YOUR CONSENT UNLESS YOU CAN PROVE IN
COURT THAT CONSENT WAS OBTAINED BY FRAUD OR
UNDER DURESS.

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

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

(7)~~(5)~~(a) Consent to adoption executed under paragraph
(4)(c) may be withdrawn for any reason by notifying the

1 adoption entity in writing by certified United States mail,
2 return receipt requested, not later than 3 business days after
3 execution of the consent or 1 business day after the date of
4 the birth mother's discharge from a licensed hospital or birth
5 center, whichever occurs later. As used in this subsection,
6 the term "business day" means any day on which the United
7 States Postal Service accepts certified mail for delivery.

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

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

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

29 (e) Absent a court order for continued placement of
30 the minor entered under this subsection, the adoption entity
31 must return the minor, within 3 days after notification of the

1 withdrawal of consent, to the physical custody of the person
2 withdrawing consent.

3 (f) Following the revocation period for withdrawal of
4 consent described in paragraph (a), consent may be withdrawn
5 only when the court finds that the consent was obtained by
6 fraud or under duress.

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

10 Section 16. Section 63.085, Florida Statutes, is
11 amended to read:

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

14 63.085 Disclosure by adoption entity.--

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

27
28 ADOPTION DISCLOSURE

29
30 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
31 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A

1 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
2 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
3 ADOPTION UNDER FLORIDA LAW:

4
5 1. Under section 63.102, Florida
6 Statutes, the existence of a placement or
7 adoption contract signed by the parent or
8 prospective adoptive parent, prior approval of
9 that contract by the court, or payment of any
10 expenses permitted under Florida law does not
11 obligate anyone to sign a consent or ultimately
12 place a minor for adoption.

13 2. Under sections 63.092 and 63.125,
14 Florida Statutes, a favorable preliminary home
15 study and a final home investigation of the
16 prospective adoptive home must be completed
17 before the minor may be placed in that home.

18 3. Under section 63.082, Florida
19 Statutes, a consent to adoption or affidavit of
20 nonpaternity may not be signed until after the
21 birth of the minor.

22 4. Under section 63.082, Florida
23 Statutes, if the minor is to be placed for
24 adoption upon release from a licensed hospital
25 or birth center following birth, the consent to
26 adoption may not be signed until 48 hours after
27 birth or until the day the birth mother has
28 been notified in writing, either on her patient
29 chart or in release papers, that she is fit to
30 be released from the licensed hospital or birth
31 center, whichever is sooner. The consent to

1 adoption or affidavit of nonpaternity is valid
2 and binding upon execution unless the court
3 finds it was obtained by fraud or under duress.

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

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

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

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

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

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

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

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

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

22 12. Under section 63.089, Florida
23 Statutes, a judgment terminating parental
24 rights pending adoption is voidable and any
25 later judgment of adoption of that minor is
26 voidable if, upon the motion of a parent, the
27 court finds that any person knowingly gave
28 false information that prevented the parent
29 from timely making known his or her desire to
30 assume parental responsibilities toward the
31 minor or to exercise his or her parental

1 rights. The motion must be filed with the court
2 that originally entered the judgment. The
3 motion must be filed within a reasonable time,
4 but not later than 1 year after the date the
5 judgment to which the motion is directed was
6 entered.
7 13. Under section 63.165, Florida
8 Statutes, the State of Florida maintains a
9 registry of adoption information. Information
10 about the registry is available from the
11 Department of Children and Family Services.
12 14. Under section 63.032, Florida
13 Statutes, a court may find that a parent has
14 abandoned his or her child based on conduct
15 during the pregnancy or based on conduct after
16 the child is born. In addition, under section
17 63.089, Florida Statutes, the failure of a
18 parent to respond to notices of proceedings
19 involving his or her child shall result in
20 termination of parental rights of a parent. A
21 lawyer can explain what a parent must do to
22 protect his or her parental rights. Any parent
23 wishing to protect his or her parental rights
24 should act IMMEDIATELY.
25 15. Each parent and prospective adoptive
26 parent is entitled to independent legal advice
27 and representation. Attorney information may be
28 obtained from the yellow pages, The Florida
29 Bar's lawyer referral service, and local legal
30 aid offices and bar associations.
31

1 16. Counseling services may be helpful
2 while making a parenting decision. Consult the
3 yellow pages of the telephone directory.
4 17. Medical and social services support
5 is available if the parent wishes to retain
6 parental rights and responsibilities. Consult
7 the Department of Children and Family Services.
8 18. Under section 63.039, Florida
9 Statutes, an adoption entity has certain legal
10 responsibilities and may be liable for damages
11 to persons whose consent to an adoption is
12 required or to prospective adoptive parents for
13 failing to materially meet those
14 responsibilities. Damages may also be recovered
15 from an adoption entity if a consent to
16 adoption or affidavit of nonpaternity is
17 obtained by fraud or under duress attributable
18 to an adoption entity.
19 19. Under section 63.097, Florida
20 Statutes, reasonable living expenses of the
21 birth mother may be paid by the prospective
22 adoptive parents and the adoption entity only
23 if the birth mother is unable to pay due to
24 involuntary unemployment or medical disability.
25 The law also allows payment of reasonable and
26 necessary medical expenses, expenses necessary
27 to comply with the requirements of chapter 63,
28 Florida Statutes, court filing expenses, and
29 costs associated with advertising. Certain
30 documented legal, counseling, and other
31 professional fees may be paid. Prior approval

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

1 adoption. The affidavit must state whether any
2 of the expenses were or are eligible to be paid
3 for by any other source. A copy of the
4 affidavit shall be sent to the Department of
5 Children and Family Services which must keep it
6 for 5 years and provide a copy to any person
7 who asks for it. On any copy given out, the
8 department must black out any words that
9 identify the child, the parents, or the
10 prospective adoptive parents.

11 21. Under section 63.132, Florida
12 Statutes, the court order approving the money
13 spent on the adoption must be separate from the
14 judgment making the adoption final. The court
15 may approve only certain costs and expenditures
16 and only if there is a receipt. The court may
17 approve only fees that are allowed under law
18 and that it finds to be "reasonable." A good
19 idea of what is and is not allowed to be paid
20 for in an adoption can be determined by reading
21 sections 63.097 and 63.132, Florida Statutes.

22
23 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
24 must obtain a written statement acknowledging receipt of the
25 disclosure required under subsection (1) and signed by the
26 persons receiving the disclosure or, if it is not possible to
27 obtain such an acknowledgment, the adoption entity must
28 execute an affidavit stating why an acknowledgment could not
29 be obtained. If the disclosure was delivered by certified
30 United States mail, return receipt requested, a return receipt
31 signed by the person from whom acknowledgment is required is

1 sufficient to meet the requirements of this subsection. A copy
2 of the acknowledgment of receipt of the disclosure must be
3 provided to the person signing it. A copy of the
4 acknowledgment or affidavit executed by the adoption entity in
5 lieu of the acknowledgment must be maintained in the file of
6 the adoption entity. The original acknowledgment or affidavit
7 must be filed with the court. In the case of a disclosure
8 provided under subsection (1), the original acknowledgment or
9 affidavit must be included in the preliminary home study
10 required in s. 63.092.

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

16 Section 17. Section 63.087, Florida Statutes, is
17 created to read:

18 63.087 Proceeding to terminate parental rights pending
19 adoption; general provisions.--

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

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

27 (3) JURISDICTION.--A court of this state which is
28 competent to decide child welfare or custody matters has
29 jurisdiction to hear all matters arising from a proceeding to
30 terminate parental rights pending adoption. All subsequent
31 proceedings for the adoption of the minor, if the petition for

1 termination is granted, must be conducted by the same judge
2 who conducted the termination proceedings, whenever possible.
3 The court may change the venue in accordance with s. 47.122.

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

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

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

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

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

22 (6) PETITION.--

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

27 (b) The petition may be filed by a parent or person
28 having legal custody of the minor. The petition may be filed
29 by an adoption entity only if a parent or person having legal
30 custody who has executed a consent to adoption pursuant to s.
31

1 63.082 consents in writing to the entity filing the petition.
2 The original of such consent must be filed with the petition.

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

5 (d) If a petition for a declaratory statement under s.
6 63.102 has previously been filed, a subsequent petition to
7 terminate parental rights pending adoption may, at the request
8 of any party or on the court's own motion, be consolidated
9 with that previous action. If the petition to terminate
10 parental rights pending adoption is consolidated with a prior
11 petition filed under this chapter for which a filing fee has
12 been paid, the petitioner may not be charged a subsequent or
13 additional filing fee.

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

21 (f) The petition must include:

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

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

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

11 a. The minor's mother;

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

14 c. Any person who has legal custody, as defined in s.
15 39.01, of the minor.

16
17 If a required name or address is not known, the petition must
18 so state.

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

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

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

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

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

1 orally before the court or filed in writing. However, failure
2 to file a written response or to appear at the hearing on the
3 petition constitutes grounds upon which the court may
4 terminate parental rights. Notwithstanding the filing of any
5 answer or any pleading, any person present at the hearing to
6 terminate parental rights pending adoption whose consent to
7 adoption is required under s. 63.062 must:

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

11 (b) Be given an opportunity to deny the allegations in
12 the petition; and

13 (c) Be given the opportunity to challenge the validity
14 of any consent or affidavit of nonpaternity signed by any
15 person.

16 Section 18. Section 63.088, Florida Statutes, is
17 created to read:

18 63.088 Proceeding to terminate parental rights pending
19 adoption; notice and service; diligent search.--

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

31

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

12
13 NOTICE OF PETITION AND HEARING

14 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

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

26
27 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
28 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
29 THE COURT OR TO APPEAR AT THIS HEARING
30 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL
31

1 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING
2 THE MINOR CHILD.

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

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

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

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

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

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

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

26 (g) Any person the mother has reason to believe may be
27 the father.

28
29 The information required under this subsection may be provided
30 to the court in the form of a sworn affidavit by a person
31 having personal knowledge of the facts, addressing each

1 inquiry enumerated in this subsection, except that, if the
2 inquiry identifies a father under paragraph (a) or paragraph
3 (b), the inquiry shall not continue further. The inquiry
4 required under this subsection may be conducted before the
5 birth of the minor.

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

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

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

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

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

30 (e) Names and addresses of relatives to the extent
31 such can be reasonably obtained from the petitioner or other

1 sources, contacts with those relatives, and inquiry as to the
2 person's last known address. The petitioner shall pursue any
3 leads of any addresses to which the person may have moved.

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

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

10 (g) Telephone listings in the area where the person
11 last resided;

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

14 (i) Highway patrol records in the state where the
15 person last resided;

16 (j) Department of Corrections records in the state
17 where the person last resided;

18 (k) Hospitals in the area where the person last
19 resided;

20 (l) Records of utility companies, including water,
21 sewer, cable television, and electric companies, in the area
22 where the person last resided;

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

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

27 (o) Search of one Internet databank locator service;
28 and

29 (p) Information held by all medical providers who
30 rendered medical treatment or care to the birth mother and
31 child, including the identity and location information of all

1 persons listed by the mother as being financially responsible
2 for the uninsured expenses of treatment or care and all
3 persons who made any such payments.

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

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

1 date and city, including the county and state in which the
2 city is located, in which conception may have occurred. If any
3 of the facts that must be included in the petition under this
4 subsection are unknown and cannot be reasonably ascertained,
5 the petition must so state.

6 Section 19. Section 63.089, Florida Statutes, is
7 created to read:

8 63.089 Proceeding to terminate parental rights pending
9 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

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

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

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

20 3. Notice has been provided under ss. 63.087 and
21 63.088;

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

24 1. At least 30 days have elapsed since the date of
25 personal service and an affidavit of service has been filed
26 with the court;

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

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

1 (c) The minor named in the petition has been born; and
2 (d) The petition contains all information required
3 under s. 63.087 and all affidavits of inquiry, diligent
4 search, and service required under s. 63.088 have been
5 obtained and filed with the court.

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

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

15 (b) Has executed an affidavit of nonpaternity and the
16 affidavit was obtained according to the requirements of this
17 chapter;

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

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

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

30 (f) Is a person who has legal custody of the person to
31 be adopted, other than a parent, who has failed to respond in

1 writing to a request for consent for a period of 60 days or,
2 after examination of his or her written reasons for
3 withholding consent, is found by the court to be withholding
4 his or her consent unreasonably; or

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

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

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

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

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

25 3. Whether the person alleged to have abandoned the
26 child, while being able, refused to provide financial support
27 when such support was requested by the person having legal
28 custody of the child;

29 4. Whether the person alleged to have abandoned the
30 child, while being able, refused to pay for medical treatment
31 when such payment was requested by the person having legal

1 custody of the child and those expenses were not covered by
2 insurance or other available sources;

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

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

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

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

23 2. The incarcerated parent has been determined by the
24 court to be a violent career criminal as defined in s.
25 775.084, a habitual violent felony offender as defined in s.
26 775.084, or a sexual predator as defined in s. 775.21; has
27 been convicted of first degree or second degree murder in
28 violation of s. 782.04 or a sexual battery that constitutes a
29 capital, life, or first degree felony violation of s. 794.011;
30 or has been convicted of an offense in another jurisdiction
31 which is substantially similar to one of the offenses listed

1 in this paragraph. As used in this section, the term
2 "substantially similar offense" means any offense that is
3 substantially similar in elements and penalties to one of
4 those listed in this paragraph, and that is in violation of a
5 law of any other jurisdiction, whether that of another state,
6 the District of Columbia, the United States or any possession
7 or territory thereof, or any foreign jurisdiction; and

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

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

19 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
20 court does not find by clear and convincing evidence that
21 parental rights of a parent should be terminated pending
22 adoption, the court must dismiss the petition with prejudice
23 and that parent's parental rights that were the subject of
24 such petition remain in full force under the law. The order
25 must include written findings in support of the dismissal,
26 including findings as to the criteria in subsection (4) if
27 rejecting a claim of abandonment. Parental rights may not be
28 terminated based upon a consent that the court finds has been
29 timely withdrawn under s. 63.082 or a consent to adoption or
30 affidavit of nonpaternity that the court finds was obtained by
31 fraud or under duress. The court must enter an order based

1 upon written findings providing for the placement of the
2 minor. The court may order scientific testing to determine the
3 paternity of the minor at any time during which the court has
4 jurisdiction over the minor. Further proceedings, if any,
5 regarding the minor must be brought in a separate custody
6 action under chapter 61, a dependency action under chapter 39,
7 or a paternity action under chapter 742.

8 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
9 ADOPTION.--

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

13 (b) Within 24 hours after filing, the clerk of the
14 court shall mail a copy of the judgment to the department, the
15 petitioner, those persons required to give consent under s.
16 63.062, and the respondent. The clerk shall execute a
17 certificate of each mailing.

18 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
19 RIGHTS.--

20 (a) A judgment terminating parental rights pending
21 adoption is voidable and any later judgment of adoption of
22 that minor is voidable if, upon the motion of a parent, the
23 court finds that a person knowingly gave false information
24 that prevented the parent from timely making known his or her
25 desire to assume parental responsibilities toward the minor or
26 meeting the requirements under this chapter to exercise his or
27 her parental rights. A motion under this subsection must be
28 filed with the court originally entering the judgment. The
29 motion must be filed within a reasonable time, but not later
30 than 1 year after the entry of the judgment terminating
31 parental rights.

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

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

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

26 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
27 records pertaining to a petition to terminate parental rights
28 pending adoption are related to the subsequent adoption of the
29 minor and are subject to the provisions of s. 63.162. The
30 confidentiality provisions of this chapter do not apply to the

31

1 extent information regarding persons or proceedings must be
2 made available as specified under s. 63.088.

3 Section 20. Section 63.092, Florida Statutes, 1998
4 Supplement, is amended to read:

5 63.092 Report to the court of intended placement by an
6 adoption entity; at-risk placement intermediary; preliminary
7 study.--

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

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

24 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the
25 minor in the intended adoptive home, a preliminary home study
26 must be performed by a licensed child-placing agency, a
27 licensed professional, or agency described in s. 61.20(2),
28 unless the petitioner is a stepparent, a spouse of the ~~birth~~
29 parent, or a relative. The preliminary study shall be
30 completed within 30 days after the receipt by the court of the
31 adoption entity's intermediary's report, but in no event may

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

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

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

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

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

11
12 If the preliminary home study is favorable, a minor may be
13 placed in the home pending entry of the judgment of adoption.
14 A minor may not be placed in the home if the preliminary home
15 study is unfavorable. If the preliminary home study is
16 unfavorable, the adoption entity intermediary or petitioner
17 may, within 20 days after receipt of a copy of the written
18 recommendation, petition the court to determine the
19 suitability of the intended adoptive home. A determination as
20 to suitability under this subsection does not act as a
21 presumption of suitability at the final hearing. In
22 determining the suitability of the intended adoptive home, the
23 court must consider the totality of the circumstances in the
24 home.

25 Section 21. Section 63.097, Florida Statutes, is
26 amended to read:

27 63.097 Fees.--

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

31

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

6 Reasonable living expenses are rent, utilities, basic
7 telephone service, food, necessary clothing, transportation,
8 and expenses found by the court to be necessary for the health
9 of the unborn child.

10 (b) Reasonable and necessary medical expenses.

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

16 (d) Court filing expenses, court costs, and other
17 litigation expenses.

18 (e) Costs associated with advertising under s.
19 63.212(1)(g).

20 (f) The following professional fees:

21 1. A reasonable hourly fee necessary to provide legal
22 representation to the adoptive parents in a proceeding filed
23 under this chapter.

24 2. A reasonable hourly fee for contact with the parent
25 related to the adoption. In determining a reasonable hourly
26 fee under this subparagraph, the court must consider if the
27 tasks done were clerical or of such a nature that the matter
28 could have been handled by support staff at a lesser rate than
29 the rate for legal representation charged under subparagraph
30 1. Such tasks specifically do not include obtaining a parent's
31 signature on any document; such tasks include, but need not be

1 limited to, transportation, transmitting funds, arranging
2 appointments, and securing accommodations.

3 3. A reasonable hourly fee for counseling services
4 provided to a parent or a prospective adoptive parent by a
5 psychologist licensed under chapter 490 or a clinical social
6 worker, marriage and family therapist, or mental health
7 counselor licensed under chapter 491.

8 (2) Prior approval of the court is not required until
9 the cumulative total of amounts permitted under subsection (1)
10 exceeds:

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

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

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

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

18 (4) The following fees, costs, and expenses are
19 prohibited:

20 (a) Any fee or expense that constitutes payment for
21 locating a minor for adoption.

22 (b) Cumulative expenses in excess of a total of \$1,500
23 related to the minor, the pregnancy, a parent, or adoption
24 proceeding, which expenses are incurred prior to the date the
25 prospective adoptive parent retains the adoption entity.

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

29 (d) Any fee on the affidavit which does not specify
30 the service that was provided and for which the fee is being
31 charged, such as a fee for facilitation, acquisition, or other

1 similar service, or which does not identify the date the
2 service was provided, the time required to provide the
3 service, the person or entity providing the service, and the
4 hourly fee charged.

5 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~
6 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~
7 ~~\$2,500, paid to an intermediary other than actual, documented~~
8 ~~medical costs, court costs, and hospital costs must be~~
9 ~~approved by the court prior to assessment of the fee by the~~
10 ~~intermediary and upon a showing of justification for the~~
11 ~~larger fee.~~

12 ~~(5)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--When an~~
13 ~~adoption entity intermediary uses the services of a licensed~~
14 ~~child-placing agency, a professional, any other person or~~
15 ~~agency pursuant to s. 63.092, or, if necessary, the~~
16 ~~department, the person seeking to adopt the child must pay the~~
17 ~~licensed child-placing agency, professional, other person or~~
18 ~~agency, or the department an amount equal to the cost of all~~
19 ~~services performed, including, but not limited to, the cost of~~
20 ~~conducting the preliminary home study, counseling, and the~~
21 ~~final home investigation. The court, upon a finding that the~~
22 ~~person seeking to adopt the child is financially unable to pay~~
23 ~~that amount, may order that such person pay a lesser amount.~~

24 Section 22. Section 63.102, Florida Statutes, is
25 amended to read:

26 63.102 Filing of petition for adoption or declaratory
27 statement; venue; proceeding for approval of fees and costs.--

28 (1) A petition for adoption may not be filed until 30
29 days after the date of the entry of the judgment terminating
30 parental rights pending adoption under this chapter, unless
31 the adoptee is an adult or the minor has been the subject of a

1 judgment terminating parental rights under chapter 39. After a
2 judgment terminating parental rights has been entered, a
3 proceeding for adoption may ~~shall~~ be commenced by filing a
4 petition entitled, "In the Matter of the Adoption of" in
5 the circuit court. The person to be adopted shall be
6 designated in the caption in the name by which he or she is to
7 be known if the petition is granted. ~~if the child is placed~~
8 ~~for adoption by an agency, Any name by which the minor child~~
9 was previously known may ~~shall~~ not be disclosed in the
10 petition, the notice of hearing, or the judgment of adoption.

11 (2) A petition for adoption or for a declaratory
12 statement as to the adoption contract shall be filed in the
13 county where the petition for termination of parental rights
14 was granted, unless the court in accordance with s. 47.122,
15 changes the venue to the county where the petitioner or
16 petitioners or the minor child resides or where the agency or
17 adoption entity with ~~in~~ which the minor child has been placed
18 is located.

19 (3) Except for adoptions involving placement of a
20 minor child with a relative within the third degree of
21 consanguinity, a petition for adoption in an adoption handled
22 by an adoption entity intermediary shall be filed within 60 ~~30~~
23 working days after entry of the judgment terminating parental
24 rights ~~placement of a child with a parent seeking to adopt the~~
25 ~~child~~. If no petition is filed within 60 ~~30~~ days, any
26 interested party, including the state, may file an action
27 challenging the prospective adoptive parent's physical custody
28 of the minor child.

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

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

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

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

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

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

1 adoption entity to refund any amount paid under this
2 subsection that is subsequently found by the court to be
3 greater than fees, costs, and expenses actually incurred.

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

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

18 (f) Prior approval of fees and costs by the court does
19 not obligate the parent to ultimately relinquish the minor for
20 adoption.~~If a petition for adoption is subsequently filed,~~
21 ~~the petition for declaratory statement and the petition for~~
22 ~~adoption must be consolidated into one case.~~

23 Section 23. Section 63.112, Florida Statutes, is
24 amended to read:

25 63.112 Petition for adoption; description; report or
26 recommendation, exceptions; mailing.--

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

31

- 1 (a) The date and place of birth of the person to be
2 adopted, if known;
- 3 (b) The name to be given to the person to be adopted;
- 4 (c) The date petitioner acquired custody of the minor
5 and the name of the person placing the minor;
- 6 (d) The full name, age, and place and duration of
7 residence of the petitioner;
- 8 (e) The marital status of the petitioner, including
9 the date and place of marriage, if married, and divorces, if
10 any;
- 11 (f) The facilities and resources of the petitioner,
12 including those under a subsidy agreement, available to
13 provide for the care of the minor to be adopted;
- 14 (g) A description and estimate of the value of any
15 property of the person to be adopted;
- 16 (h) The case style and date of entry of the judgment
17 terminating parental rights or the judgment declaring a minor
18 available for adoption ~~name and address, if known, of any~~
19 ~~person whose consent to the adoption is required, but who has~~
20 ~~not consented, and facts or circumstances that excuse the lack~~
21 ~~of consent; and~~
- 22 (i) The reasons why the petitioner desires to adopt
23 the person.
- 24 (2) The following documents are required to be filed
25 with the clerk of the court at the time the petition is filed:
- 26 (a) A certified copy of the court judgment terminating
27 parental rights under chapter 39 or the judgment declaring a
28 minor available for adoption under this chapter. ~~The required~~
29 ~~consents, unless consent is excused by the court.~~
- 30 (b) The favorable preliminary home study of the
31 department, licensed child-placing agency, or professional

1 pursuant to s. 63.092, as to the suitability of the home in
2 which the minor has been placed.

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

5 1. ~~The birth mother, if parental rights have not been~~
6 ~~terminated;~~

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

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

13

14 ~~The court may waive the requirement for an interview with the~~
15 ~~birth mother or birth father in the investigation for good~~
16 ~~cause shown.~~

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

21 (4) The clerk of the court shall mail a copy of the
22 petition within 24 hours after filing, and execute a
23 certificate of mailing, to the adoption entity ~~department and~~
24 ~~the agency~~ placing the minor, if any.

25 Section 24. Section 63.122, Florida Statutes, is
26 amended to read:

27 63.122 Notice of hearing on petition.--

28 (1) After the petition to adopt a minor is filed, the
29 court must establish a time and place for hearing the
30 petition. The hearing may ~~must~~ not be held sooner than 30 days
31 after the date the judgment terminating parental rights was

1 entered or sooner than 90 days after the date the minor was
2 placed ~~the placing of the minor~~ in the physical custody of the
3 petitioner. The minor must remain under the supervision of
4 the adoption entity department, ~~an intermediary, or a licensed~~
5 ~~child-placing agency~~ until the adoption becomes final. When
6 the petitioner is a spouse of the birth parent, the hearing
7 may be held immediately after the filing of the petition.

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

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

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

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

21 ~~(b) The intermediary.~~

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

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

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

1 Section 25. Section 63.125, Florida Statutes, is
2 amended to read:

3 63.125 Final home investigation.--

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

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

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

28 (4) The department, the licensed child-placing agency,
29 or the professional making the required investigation may
30 request other state agencies or child-placing agencies within
31 or outside this state to make investigations of designated

1 parts of the inquiry and to make a written report to the
2 department, the professional, or other person or agency.

3 (5) The final home investigation must include:

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

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

10 (c) The family social and medical history as provided
11 in s. 63.082.

12 (d) Any other information relevant to the suitability
13 of the intended adoptive home.

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

16 Section 26. Section 63.132, Florida Statutes, is
17 amended to read:

18 63.132 Affidavit ~~Report~~ of expenditures and
19 receipts.--

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

24 (a) The affidavit must be signed by the adoption
25 entity and the prospective adoptive parents. A copy of the
26 affidavit must be provided to the adoptive parents at the time
27 the affidavit is executed.

28 (b) The affidavit must itemize ~~containing a full~~
29 ~~accounting of~~ all disbursements and receipts of anything of
30 value, including professional and legal fees, made or agreed
31 to be made by or on behalf of the prospective adoptive parent

1 ~~petitioner~~ and any adoption entity intermediary in connection
2 with the adoption ~~or in connection with any prior proceeding~~
3 to terminate parental rights which involved the minor who is
4 the subject of the petition for adoption. The affidavit must
5 also include, for each fee itemized, the service provided for
6 which the fee is being charged, the date the service was
7 provided, the time required to provide the service, the person
8 or entity that provided the service, and the hourly fee
9 charged.

10 (c) The clerk of the court shall forward a copy of the
11 affidavit to the department. The department must retain these
12 records for 5 years. Copies of affidavits received by the
13 department under this subsection must be provided upon the
14 request of any person. The department must redact all
15 identifying references to the minor, the parent, or the
16 adoptive parent from any affidavit released by the department,
17 as required by s. 63.162. The name of the adoption entity may
18 not be redacted. The intent of this paragraph is to create a
19 resource for adoptive parents and others wishing to obtain
20 information about the cost of adoption in this state.

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

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

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

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

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

31

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

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

10 (2) The court may require such additional information
11 as is deemed necessary.

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

18 (a) Contrary to this chapter;

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

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

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

27 Section 27. Section 63.142, Florida Statutes, is
28 amended to read:

29 63.142 Hearing; judgment of adoption.--
30
31

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

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

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

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

11 (3) DISMISSAL.--

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

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

16 (4) JUDGMENT.--At the conclusion of the hearing, after
17 ~~when~~ the court determines that the date for a parent to file
18 an appeal of a valid judgment terminating that parent's
19 parental rights has passed and no appeal is pending ~~at~~
20 ~~necessary consents have been obtained~~ and that the adoption is
21 in the best interest of the person to be adopted, a judgment
22 of adoption shall be entered.

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

1 motion must be filed within a reasonable time, but not later
2 than 1 year after the date the judgment terminating parental
3 rights was entered.

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

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

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

29 Section 28. Section 63.152, Florida Statutes, is
30 amended to read:
31

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

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

15 63.162 Hearings and records in adoption proceedings;
16 confidential nature.--

17 (2) All papers and records pertaining to the adoption,
18 including the original birth certificate, whether part of the
19 permanent record of the court or a file in the office of an
20 adoption entity department, ~~in a licensed child-placing~~
21 ~~agency, or in the office of an intermediary~~ are confidential
22 and subject to inspection only upon order of the court;
23 however, the petitioner in any proceeding for adoption under
24 this chapter may, at the option of the petitioner, make public
25 the reasons for a denial of the petition for adoption. The
26 order must specify which portion of the records are subject to
27 inspection, and it may exclude the name and identifying
28 information concerning the ~~birth~~ parent or adoptee. Papers and
29 records of the department, a court, or any other governmental
30 agency, which papers and records relate to adoptions, are
31 exempt from s. 119.07(1). In the case of a nonagency

1 adoption, the department must be given notice of hearing and
2 be permitted to present to the court a report on the
3 advisability of disclosing or not disclosing information
4 pertaining to the adoption. In the case of an agency
5 adoption, the licensed child-placing agency must be given
6 notice of hearing and be permitted to present to the court a
7 report on the advisability of disclosing or not disclosing
8 information pertaining to the adoption. This subsection does
9 not prohibit the department from inspecting and copying any
10 official record pertaining to the adoption that is maintained
11 by the department and does not prohibit an agency from
12 inspecting and copying any official record pertaining to the
13 adoption that is maintained by that agency.

14 Section 30. Section 63.165, Florida Statutes, is
15 amended to read:

16 63.165 State registry of adoption information; duty to
17 inform and explain.--Notwithstanding any other law to the
18 contrary, the department shall maintain a registry with the
19 last known names and addresses of an adoptee and his or her
20 ~~natural~~ parents whose consent was required under s. 63.062,
21 and adoptive parents; the certified statement of the final
22 decree of adoption provided by the clerk of the court under s.
23 63.152; and any other identifying information ~~that~~ ~~which~~ the
24 adoptee, ~~natural~~ parents whose consent was required under s.
25 63.062, or adoptive parents desire to include in the registry.
26 The department shall maintain the registry records for the
27 time required by rules adopted by the department in accordance
28 with this chapter or for 99 years, whichever period is
29 greater.The registry shall be open with respect to all
30 adoptions in the state, regardless of when they took place.
31 The registry shall be available for those persons choosing to

1 enter information therein, but no one shall be required to do
2 so.

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

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

29 (3) The adoption entity ~~department, intermediary, or~~
30 ~~licensed child-placing agency~~ must inform the birth parents
31 before parental rights are terminated, and the adoptive

1 parents before placement, in writing, of the existence and
2 purpose of the registry established under this section, but
3 failure to do so does not affect the validity of any
4 proceeding under this chapter.

5 Section 31. Section 63.182, Florida Statutes, is
6 amended to read:

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

9 63.182 Statute of repose.--An action or proceeding of
10 any kind to vacate, set aside, or otherwise nullify a judgment
11 of adoption or an underlying judgment terminating parental
12 rights on any ground, including fraud or duress, shall in no
13 event be filed more than 1 year after entry of the judgment
14 terminating parental rights.

15 Section 32. Subsection (2) of section 63.202, Florida
16 Statutes, is amended to read:

17 63.202 Authority to license; adoption of rules.--

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

21 Section 33. Section 63.207, Florida Statutes, is
22 amended to read:

23 63.207 Out-of-state placement.--

24 (1) Unless the person placing a minor for adoption
25 chooses to place the minor outside the state, the minor ~~child~~
26 is to be placed with a relative within the third degree or
27 with a stepparent, the minor is a special needs child as
28 defined in s. 409.166, or for other good cause shown, an
29 adoption entity may not ~~no person except an intermediary, an~~
30 agency, or the department shall:

31

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

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

21 (2) An adoption entity intermediary may not counsel a
22 birth mother to leave the state for the purpose of giving
23 birth to a child outside the state in order to secure a fee in
24 excess of that permitted under s. 63.097 when it is the
25 intention that the child is to be placed for adoption outside
26 the state.

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

30 Section 34. Section 63.212, Florida Statutes, is
31 amended to read:

1 63.212 Prohibited acts; penalties for violation;
2 preplanned adoption agreement.--

3 (1) It is unlawful for any person:

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

16 (b) ~~Except the department, an intermediary, or an~~
17 ~~agency, to place or attempt to place a child for adoption with~~
18 ~~a family whose primary residence and place of employment is in~~
19 ~~another state unless the child is placed with a relative~~
20 ~~within the third degree or with a stepparent. An intermediary~~
21 ~~may place or attempt to place a special needs child for~~
22 ~~adoption with a family whose primary residence and place of~~
23 ~~employment is in another state only if the intermediary has a~~
24 ~~declaratory statement from the court establishing the fees to~~
25 ~~be paid. This requirement does not apply if the child is~~
26 ~~placed with a relative within the third degree or with a~~
27 ~~stepparent.~~

28 (b)(c) ~~Except an adoption entity the Department of~~
29 ~~Children and Family Services, an agency, or an intermediary,~~
30 to place or attempt to place within the state a minor child
31 for adoption unless the minor child is placed with a relative

1 within the third degree or with a stepparent. This
2 prohibition, however, does not apply to a person who is
3 placing or attempting to place a minor child for the purpose
4 of adoption with the adoption entity ~~Department of Children~~
5 ~~and Family Services or an agency or through an intermediary.~~

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

22 (d)(e) Having the rights and duties of a parent with
23 respect to the care and custody of a minor to assign or
24 transfer such parental rights for the purpose of, incidental
25 to, or otherwise connected with, selling or offering to sell
26 such rights and duties.

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

30 (f)(g) Except an adoption entity ~~the Department of~~
31 ~~Children and Family Services or an agency, to charge or accept~~

1 any fee or compensation of any nature from anyone for making a
2 referral in connection with an adoption.

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

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

29 1. Individuals may enter into a preplanned adoption
30 arrangement as specified herein, but such arrangement shall
31 not in any way:

1 a. Effect final transfer of custody of a child or
2 final adoption of a child, without review and approval of the
3 department and the court, and without compliance with other
4 applicable provisions of law.

5 b. Constitute consent of a mother to place her child
6 for adoption until 7 days following birth, and unless the
7 court making the custody determination or approving the
8 adoption determines that the mother was aware of her right to
9 rescind within the 7-day period following birth but chose not
10 to rescind such consent.

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

14 a. That the volunteer mother agrees to become pregnant
15 by the fertility technique specified in the agreement, to bear
16 the child, and to terminate any parental rights and
17 responsibilities to the child she might have through a written
18 consent executed at the same time as the preplanned adoption
19 agreement, subject to a right of rescission by the volunteer
20 mother any time within 7 days after the birth of the child.

21 b. That the volunteer mother agrees to submit to
22 reasonable medical evaluation and treatment and to adhere to
23 reasonable medical instructions about her prenatal health.

24 c. That the volunteer mother acknowledges that she is
25 aware that she will assume parental rights and
26 responsibilities for the child born to her as otherwise
27 provided by law for a mother, if the intended father and
28 intended mother terminate the agreement before final transfer
29 of custody is completed, or if a court determines that a
30 parent clearly specified by the preplanned adoption agreement
31 to be the biological parent is not the biological parent, or

1 if the preplanned adoption is not approved by the court
2 pursuant to the Florida Adoption Act.

3 d. That an intended father who is also the biological
4 father acknowledges that he is aware that he will assume
5 parental rights and responsibilities for the child as
6 otherwise provided by law for a father, if the agreement is
7 terminated for any reason by any party before final transfer
8 of custody is completed or if the planned adoption is not
9 approved by the court pursuant to the Florida Adoption Act.

10 e. That the intended father and intended mother
11 acknowledge that they may not receive custody or the parental
12 rights under the agreement if the volunteer mother terminates
13 the agreement or if the volunteer mother rescinds her consent
14 to place her child for adoption within 7 days after birth.

15 f. That the intended father and intended mother may
16 agree to pay all reasonable legal, medical, psychological, or
17 psychiatric expenses of the volunteer mother related to the
18 preplanned adoption arrangement, and may agree to pay the
19 reasonable living expenses of the volunteer mother. No other
20 compensation, whether in cash or in kind, shall be made
21 pursuant to a preplanned adoption arrangement.

22 g. That the intended father and intended mother agree
23 to accept custody of and to assert full parental rights and
24 responsibilities for the child immediately upon the child's
25 birth, regardless of any impairment to the child.

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

30 i. That the agreement may be terminated at any time by
31 any of the parties.

1 3. A preplanned adoption agreement shall not contain
2 any provision:

3 a. To reduce any amount paid to the volunteer mother
4 if the child is stillborn or is born alive but impaired, or to
5 provide for the payment of a supplement or bonus for any
6 reason.

7 b. Requiring the termination of the volunteer mother's
8 pregnancy.

9 4. An attorney who represents an intended father and
10 intended mother or any other attorney with whom that attorney
11 is associated shall not represent simultaneously a female who
12 is or proposes to be a volunteer mother in any matter relating
13 to a preplanned adoption agreement or preplanned adoption
14 arrangement.

15 5. Payment to agents, finders, and intermediaries,
16 including attorneys and physicians, as a finder's fee for
17 finding volunteer mothers or matching a volunteer mother and
18 intended father and intended mother is prohibited. Doctors,
19 psychologists, attorneys, and other professionals may receive
20 reasonable compensation for their professional services, such
21 as providing medical services and procedures, legal advice in
22 structuring and negotiating a preplanned adoption agreement,
23 or counseling.

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

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

28 b. "Child" means the child or children conceived by
29 means of an insemination that is part of a preplanned adoption
30 arrangement.

31

1 c. "Fertility technique" means artificial
2 embryonation, artificial insemination, whether in vivo or in
3 vitro, egg donation, or embryo adoption.

4 d. "Intended father" means a male who, as evidenced by
5 a preplanned adoption agreement, intends to have the parental
6 rights and responsibilities for a child conceived through a
7 fertility technique, regardless of whether the child is
8 biologically related to the male.

9 e. "Intended mother" means a female who, as evidenced
10 by a preplanned adoption agreement, intends to have the
11 parental rights and responsibilities for a child conceived
12 through a fertility technique, regardless of whether the child
13 is biologically related to the female.

14 f. "Parties" means the intended father and intended
15 mother, the volunteer mother and her husband, if she has a
16 husband, who are all parties to the preplanned adoption
17 agreement.

18 g. "Preplanned adoption agreement" means a written
19 agreement among the parties that specifies the intent of the
20 parties as to their rights and responsibilities in the
21 preplanned adoption arrangement, consistent with the
22 provisions of this act.

23 h. "Preplanned adoption arrangement" means the
24 arrangement through which the parties enter into an agreement
25 for the volunteer mother to bear the child, for payment by the
26 intended father and intended mother of the expenses allowed by
27 this act, for the intended father and intended mother to
28 assert full parental rights and responsibilities to the child
29 if consent to adoption is not rescinded after birth by the
30 volunteer mother, and for the volunteer mother to terminate,
31 subject to a right of rescission, in favor of the intended

1 father and intended mother all her parental rights and
2 responsibilities to the child.

3 i. "Volunteer mother" means a female person at least
4 18 years of age who voluntarily agrees, subject to a right of
5 rescission, that if she should become pregnant pursuant to a
6 preplanned adoption arrangement, she will terminate in favor
7 of the intended father and intended mother her parental rights
8 and responsibilities to the child.

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

13 (3) It is unlawful for any adoption entity
14 ~~intermediary~~ to fail to report to the court, prior to
15 placement, the intended placement of a minor child for
16 purposes of adoption with any person not a stepparent or a
17 relative within the third degree, if the adoption entity
18 ~~intermediary~~ participates in such intended placement.

19 (4) It is unlawful for any adoption entity
20 ~~intermediary~~ to charge any fee except those fees permitted
21 under s. 63.097 and approved under s. 63.102 ~~over \$1,000 and~~
22 ~~those costs as set out in paragraph (1)(d) over \$2,500, other~~
23 ~~than for actual documented medical costs, court costs, and~~
24 ~~hospital costs unless such fee is approved by the court prior~~
25 ~~to the assessment of the fee by the intermediary and upon a~~
26 ~~showing of justification for the larger fee.~~

27 (5) It is unlawful for any adoption entity
28 ~~intermediary~~ to counsel a birth mother to leave the state for
29 the purpose of giving birth to a child outside the state in
30 order to secure a fee in excess of that permitted under s.

31

1 63.097 when it is the intention that the child be placed for
2 adoption outside the state.

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

7 (7) A person who violates any provision of this
8 section, excluding paragraph (1)(g)(h), commits ~~is guilty of~~ a
9 felony of the third degree, punishable as provided in s.
10 775.082, s. 775.083, or s. 775.084. A person who violates
11 paragraph (1)(g)(h) commits ~~is guilty of~~ a misdemeanor of the
12 second degree, punishable as provided in s. 775.083; and each
13 day of continuing violation shall be considered a separate
14 offense.

15 Section 35. Section 63.219, Florida Statutes, is
16 amended to read:

17 63.219 Sanctions.--Upon a finding by the court that an
18 adoption entity ~~intermediary or agency~~ has violated any
19 provision of this chapter, the court is authorized to prohibit
20 the adoption entity ~~intermediary or agency~~ from placing a
21 minor for adoption in the future.

22 Section 36. Paragraph (c) of subsection (1) and
23 paragraph (c) of subsection (2) of section 63.301, Florida
24 Statutes, are amended to read:

25 63.301 Advisory council on adoption.--

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

30 (c) One member shall be a representative from a
31 child-caring agency registered under s. 409.176 that ~~physician~~

1 ~~licensed to practice in Florida who, as an intermediary,~~
2 places or has placed children for adoption.

3
4 All members shall be appointed to serve 2-year terms.

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

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

13 Section 37. Subsections (49) and (50) of section
14 39.01, Florida Statutes, 1998 Supplement, are amended to read:

15 39.01 Definitions.--When used in this chapter, unless
16 the context otherwise requires:

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

26 (50) "Participant," for purposes of a shelter
27 proceeding, dependency proceeding, or termination of parental
28 rights proceeding, means any person who is not a party but who
29 should receive notice of hearings involving the child,
30 including foster parents or caregivers, identified prospective
31 parents, grandparents, or great-grandparents entitled to

1 priority for adoption consideration under s. 63.0425, actual
2 custodians of the child, and any other person whose
3 participation may be in the best interest of the child.
4 Participants may be granted leave by the court to be heard
5 without the necessity of filing a motion to intervene.

6 Section 38. Subsection (41) of section 984.03, Florida
7 Statutes, 1998 Supplement, is amended to read:

8 984.03 Definitions.--When used in this chapter, the
9 term:

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

19 Section 39. Subsection (42) of section 985.03, Florida
20 Statutes, 1998 Supplement, is amended to read:

21 985.03 Definitions.--When used in this chapter, the
22 term:

23 (42) "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 either s. 39.503(1)
31 or s. 63.062(1)~~(b)~~.

1 Section 40. Section 63.072, Florida Statutes, is
2 repealed.
3 Section 41. Any petition for adoption filed before
4 October 1, 1999, shall be governed by the law in effect at the
5 time the petition was filed.
6 Section 42. This act shall take effect October 1,
7 1999.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 2
4 Conforms provisions to use uniformly the terms "child" or
5 "minor" in appropriate context.
6 Eliminates reference to "birth" preceding the terms "father",
7 "parent" and "mother" referring instead to "parent" as defined
8 in chapter 39.
9 Adds registered child-caring agencies to the definition of
10 adoption entity.
11 Adds definitions for "parent", "relative" and "legal custody"
12 to conform with chapter 39.
13 Clarifies prohibited acts provision; adds "knowingly
14 withholding material information" as a prohibited act
15 punishable as a second degree misdemeanor; expands the civil
16 liability for such acts to include all damages, including
17 reasonable attorney's fees and costs; and authorizes
18 restitution in the related criminal action or the separate
19 civil action.
20 Allows courts to give great-grandparents priority to adopt
21 under certain circumstances.
22 Allows prospective adoptive parents to recover a judgment
23 against an adoption entity from that entity's insurance
24 carrier.
25 Requires the adoption disclosure form to include information
26 regarding fees, costs and expenditures, remedies for
27 reimbursement and award of attorney's fees.
28 Adds information in a medical provider's records regarding a
29 financially responsible party, as an additional source for
30 inquiry into the identity and location of a person whose
31 consent is required.
32 Revises venue provisions to resolve discrepancy in venue for
33 proceedings for termination of parental rights and proceedings
34 for adoption and to allow venue to be changed in accordance
35 with section 47.122, F.S.
36 Removes restriction on out-of-state adoptions where the person
37 placing the minor for adoption requests out of state placement
38 or where good cause is shown.
39 Increases the cumulative adoption expense threshold before
40 court approval is required from \$500 to \$1500.