

1 A bill to be entitled
2 An act relating to adoption; amending ss.
3 39.703, 39.802, 39.806, and 39.811, F.S.,
4 relating to the petition and grounds for
5 terminating parental rights and powers of
6 disposition; removing provisions authorizing
7 licensed child-placing agencies to file actions
8 to terminate parental rights; amending s.
9 39.812, F.S.; providing additional requirements
10 for a petition for adoption; prohibiting filing
11 such petition until the order terminating
12 parental rights is final; amending s. 63.022,
13 F.S.; revising legislative intent with respect
14 to adoptions; amending s. 63.032, F.S.;
15 revising definitions; defining "adoption
16 entity," "legal custody," "parent," and
17 "relative"; creating s. 63.037, F.S.; exempting
18 certain provisions from adoption proceedings
19 initiated under ch. 39, F.S.; creating s.
20 63.039, F.S.; providing duties of an adoption
21 entity to prospective adoptive parents;
22 providing sanctions and an award of attorney's
23 fees under certain circumstances; amending s.
24 63.0425, F.S.; conforming provisions relating
25 to grandparent's right to adopt; amending s.
26 63.052, F.S.; providing for placement of a
27 minor pending adoption; specifying the
28 jurisdiction of the court over a minor placed
29 for adoption; amending s. 63.062, F.S.;
30 specifying additional persons who must consent
31 to an adoption, execute an affidavit of

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

1 adoption; creating s. 63.089, F.S.; providing
2 hearing procedures for proceedings to terminate
3 parental rights pending adoption; specifying
4 grounds upon which parental rights may be
5 terminated; providing for finding of
6 abandonment; providing for dismissal of
7 petition procedures; providing for
8 post-judgment relief; providing for
9 confidentiality of records; amending s. 63.092,
10 F.S.; providing requirements in an at-risk
11 placement before termination of parental
12 rights; amending s. 63.097, F.S.; revising fee
13 requirements to provide for allowable and
14 prohibited fees and costs; amending s. 63.102,
15 F.S.; revising requirements for filing a
16 petition for adoption; providing requirements
17 for prior approval of fees and costs; revising
18 requirements for declaratory statement as to
19 adoption contract; amending s. 63.112, F.S.;
20 revising requirements for form and content of a
21 petition for adoption; amending s. 63.122,
22 F.S.; revising the time requirements for
23 hearing a petition for adoption; amending s.
24 63.125, F.S.; conforming provisions relating to
25 the final home investigation; amending s.
26 63.132, F.S.; revising requirements for
27 affidavit of expenses and receipts; requiring
28 separate court order approving fees, costs, and
29 expenses; amending s. 63.142, F.S.; specifying
30 circumstances under which a judgment
31 terminating parental rights pending adoption is

1 voidable; providing for an evidentiary hearing
2 to determine the minor's placement following a
3 motion to void such a judgment; amending s.
4 63.162, F.S.; conforming provisions relating to
5 confidential records of adoption proceedings;
6 amending s. 63.165, F.S.; requiring that a copy
7 of the certified statement of final decree of
8 adoption be included in the state registry of
9 adoption information; requiring that the
10 Department of Children and Family Services
11 maintain such information for a specified
12 period; amending s. 63.182, F.S.; providing a
13 1-year statute of repose for actions to set
14 aside or vacate a judgment of adoption or a
15 judgment terminating parental rights pending
16 adoption; providing a 2-year statute of repose
17 for an action in fraud to set aside or vacate a
18 judgment of adoption or a judgment terminating
19 parenting rights; amending s. 63.202, F.S.;
20 conforming provisions relating to agencies
21 authorized to place minors for adoption;
22 amending s. 63.207, F.S.; revising provisions
23 that limit the placement of a minor in another
24 state for adoption; amending s. 63.212, F.S.;
25 revising provisions relating to prohibitions
26 and penalties with respect to adoptions;
27 amending s. 63.219, F.S.; conforming provisions
28 relating to sanctions; amending s. 63.301,
29 F.S.; revising membership of an advisory
30 council on adoption to include a child-caring
31 agency registered under s. 409.176, F.S.;

1 amending ss. 39.01, 984.03, and 985.03, F.S.;
2 correcting cross-references; repealing s.
3 63.072, F.S., relating to persons who may waive
4 required consent to an adoption; requiring that
5 a petition for adoption be governed by the law
6 in effect at the time the petition is filed;
7 providing for severability; providing an
8 effective date.
9

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

11
12 Section 1. Section 39.703, Florida Statutes, 1998
13 Supplement, is amended to read:

14 39.703 Initiation of termination of parental rights
15 proceedings; judicial review.--

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

1 to the court outlining the reasons for delay, the progress
2 made in the termination of parental rights process, and the
3 anticipated date of completion of the process.

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

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

30 39.802 Petition for termination of parental rights;
31 filing; elements.--

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

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

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

15 39.806 Grounds for termination of parental rights.--

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

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

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

30 2. The surrender and consent may be withdrawn after
31 acceptance by the department ~~or licensed child-placing agency~~

1 only after a finding by the court that the surrender and
2 consent were obtained by fraud or duress.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 39.811 Powers of disposition; order of disposition.--

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

1 ~~adoption or place the child in the custody of a licensed~~
2 ~~child-placing agency for the purpose of adoption.~~

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

16 Section 5. Section 39.812, Florida Statutes, 1998
17 Supplement, is amended to read:

18 39.812 Postdisposition relief; petition for
19 adoption.--

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

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1 (2) In any subsequent adoption proceeding, the parents
2 are ~~shall not be~~ entitled to any notice of the proceeding and
3 are not ~~thereof, nor shall they be~~ entitled to knowledge at
4 any time after the order terminating parental rights is
5 entered of the whereabouts of the child or of the identity or
6 location of any person having the custody of or having adopted
7 the child, except as provided by order of the court pursuant
8 to this chapter or chapter 63.7 ~~and~~ In any habeas corpus or
9 other proceeding involving the child brought by any parent of
10 the child, an ~~no~~ agent or contract provider of the ~~licensed~~
11 ~~child-placing agency or department~~ may not ~~shall~~ be compelled
12 to divulge that information, but may be compelled to produce
13 the child before a court of competent jurisdiction if the
14 child is still subject to the guardianship of the ~~licensed~~
15 ~~child-placing agency or department~~.

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

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

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

17 Section 6. Section 63.022, Florida Statutes, 1998
18 Supplement, is amended to read:

19 63.022 Legislative intent.--

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

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

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

28 (b) The required persons consent to the adoption or
29 the parent-child relationship is terminated by judgment of the
30 court.

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

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

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

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

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

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

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

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

30 (k) The ~~birth~~ parent, the prospective adoptive parent,
31 and the minor child receive the same or similar safeguards,

1 guidance, counseling, and supervision in all adoptions ~~an~~
2 ~~intermediary adoption as they receive in an agency or~~
3 ~~department adoption.~~

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

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

14 Section 7. Section 63.032, Florida Statutes, is
15 amended to read:

16 63.032 Definitions.--As used in this chapter act,
17 ~~unless the context otherwise requires~~,the term:

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

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1 ~~(2)(10)~~ "Adoption" means the act of creating the legal
2 relationship between parent and child where it did not exist,
3 thereby declaring the child to be legally the child of the
4 adoptive parents and their heir at law and entitled to all the
5 rights and privileges and subject to all the obligations of a
6 child born to such adoptive parents in lawful wedlock.

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

10 ~~(4)(5)~~ "Adult" means a person who is not a minor.

11 ~~(5)(7)~~ "Agency" means any child-placing agency
12 licensed by the department pursuant to s. 63.202 to place
13 minors for adoption.

14 ~~(6)(2)~~ "Child" means a son or daughter, whether by
15 birth or adoption.

16 ~~(7)(3)~~ "Court" means any circuit court of this state
17 and, when the context requires, the court of any state that is
18 empowered to grant petitions for adoption.

19 ~~(8)(1)~~ "Department" means the Department of Children
20 and Family Services.

21 ~~(9)(8)~~ "Intermediary" means an attorney ~~or physician~~
22 who is licensed or authorized to practice in this state and
23 who is placing or intends to place a child for adoption or,
24 for the purpose of adoptive placements of children from out of
25 state with citizens of this state, a child-placing agency
26 licensed in another state that is qualified by the department.

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

29 ~~(11)(4)~~ "Minor" means a person under the age of 18
30 years.

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

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

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

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

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

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

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

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

3 Section 8. Section 63.037, Florida Statutes, is
4 created to read:

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

19 Section 9. Section 63.039, Florida Statutes, is
20 created to read:

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

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

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

4 (b) Provide written initial and postbirth disclosure
5 to the parent at the time and in the manner required under s.
6 63.085.

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

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

14 (e) Include in the petition to terminate parental
15 rights pending adoption all information required under s.
16 63.087(6)(e) and (f).

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

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

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

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

1 (2) An adoption entity that materially fails to meet a
2 duty specified in subsection (1) may be liable to the
3 prospective adoptive parents for all sums paid by the
4 prospective adoptive parents or on their behalf in
5 anticipation of or in connection with an adoption upon a
6 showing by the moving party that actual injury was caused by
7 the material failure.

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

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

30 (5) The court must provide to The Florida Bar any
31 order that imposes sanctions under this section against an

1 attorney acting as an adoption agency or as an intermediary.
2 The court must provide to the Department of Children and
3 Family Services any order that imposes sanctions under this
4 section against an agency. The order must be provided within
5 30 days after the date that the order was issued.

6 Section 10. Subsection (1) of section 63.0425, Florida
7 Statutes, is amended to read:

8 63.0425 Grandparent's right to adopt.--

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

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

18 63.052 Guardians designated; proof of commitment.--

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

26 (2) For minors who have been voluntarily surrendered
27 to an intermediary through an execution of consent to
28 adoption, the intermediary shall be responsible for the minor
29 ~~child~~ until the time a court orders preliminary approval of
30 placement of the minor child in the prospective adoptive home,
31 at which time the prospective adoptive parents become

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

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

31

1 (3) If a minor is surrendered to an intermediary for
2 subsequent adoption and a suitable prospective adoptive home
3 is not available pursuant to s. 63.092 at the time the minor
4 is surrendered to the intermediary or, if the minor is a
5 newborn admitted to a licensed hospital or birth center, at
6 the time the minor is discharged from the hospital or birth
7 center, the minor must be placed in licensed foster care,~~the~~
8 ~~intermediary shall be responsible for the child until such a~~
9 suitable prospective adoptive home is available.

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

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

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

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

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

17 63.062 Persons required to consent to adoption;
18 affidavit of nonpaternity; waiver of venue.--

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

25 (a) The mother of the minor.

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

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

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

30 3. The minor has been established by court proceeding
31 to be his child.

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

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

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

12 2.5. He Has provided, or has attempted to provide, the
13 child or the mother during her pregnancy with support in a
14 repetitive, customary manner; or—

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

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

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

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

31

1 receive disclosure under s. 63.085 prior to signing the
2 affidavit.

3 (3) A person who signs a consent to adoption or an
4 affidavit of nonpaternity must be given reasonable notice of
5 his or her right to select a person who does not have an
6 employment, professional, or personal relationship with the
7 adoption entity or the prospective adoptive parents to be
8 present when the consent to adoption or affidavit of
9 nonpaternity is executed and to sign the consent or affidavit
10 as a witness.

11 (4) An affidavit of nonpaternity must be in
12 substantially the following form:

13
14 AFFIDAVIT OF NONPATERNITY

15
16 1. I have personal knowledge of the facts
17 stated in this affidavit.

18 2. I have been told that has a
19 child. I shall not establish or claim paternity
20 for this child, whose name is ... and whose
21 date of birth is

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

27 4. With respect to the child referenced
28 in this affidavit, I have not provided the
29 birth mother with child support or prebirth
30 support; I have not provided her with prenatal
31 care or assisted her with medical expenses; I

1 have not provided the birth mother or her child
2 or unborn child with support of any kind, nor
3 do I intend to do so.

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

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

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

18
19 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
20 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
21 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

22
23 ~~(5)(2)~~ The court may require that consent be executed
24 by:

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

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

30 ~~(6)(3)~~ The petitioner must make good faith and
31 diligent efforts as provided under s. 63.088 to notify, and

1 obtain written consent from, the persons required to consent
2 to adoption under this section ~~within 60 days after filing the~~
3 ~~petition. These efforts may include conducting interviews and~~
4 ~~record searches to locate those persons, including verifying~~
5 ~~information related to location of residence, employment,~~
6 ~~service in the Armed Forces, vehicle registration in this~~
7 ~~state, and corrections records.~~

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

14 ~~(8)(5)~~ A petition to adopt an adult may be granted if:

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

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

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

29
30 WAIVER OF VENUE
31

1
2 I understand that I have the right to require
3 that the Petition to terminate my parental
4 rights be filed in the county where I reside. I
5 waive such right so that the Petition to
6 Terminate Parental Rights may be filed by
7 ...(adoption entity)... in ...(county name)...
8 county, Florida.

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

24
25 (b)1. The waiver of venue must be a separate document
26 containing no consents, disclosures, or other information
27 unrelated to venue.

28 2. Adoption entities must attach to the waiver of
29 venue a form that the parent whose rights are to be terminated
30 may use to request a transfer of venue for the proceeding.
31 This form must contain the intended caption of the action for

1 termination of parental rights and information identifying the
2 child which will be sufficient for the clerk to properly file
3 the form upon receipt.

4 3. This form must include a notice that if an adoption
5 entity knows that a parent whose rights will be terminated
6 intends to object to the termination but intentionally files
7 the petition for termination of parental rights in a county
8 which is not consistent with the required venue under such
9 circumstances, the adoption entity shall be responsible for
10 the attorney's fees of the parent contesting the transfer of
11 venue.

12 Section 13. Section 63.082, Florida Statutes, is
13 amended to read:

14 63.082 Execution of consent to adoption or affidavit
15 of nonpaternity; family social and medical history; withdrawal
16 of consent.--

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

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

22 (b) If by an agency, by affidavit from its authorized
23 representative.

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

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

28 (2) A consent that does not name or otherwise identify
29 the adopting parent is valid if the consent contains a
30 statement by the person consenting that the consent was
31

1 voluntarily executed and that identification of the adopting
2 parent is not required for granting the consent.

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

25 (b) Consent executed by ~~the department, by a licensed~~
26 ~~child-placing agency, or by~~ an appropriate order or
27 certificate of the court if executed under s. 63.062(5)(b)
28 must be attached to the petition to terminate parental rights
29 pending adoption and ~~must be accompanied by a family medical~~
30 ~~history that includes such information concerning the medical~~
31

1 ~~history of the child and the birth parents as is available or~~
2 ~~readily obtainable.~~

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

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

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

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

30 (d) The consent to adoption or the affidavit of
31 nonpaternity must be signed ~~child,~~ in the presence of two

1 witnesses, and be acknowledged before a notary public who is
2 not signing as one of the witnesses. The notary public must
3 legibly note on the consent or the affidavit the date and time
4 of execution. The witnesses' names must be typed or printed
5 underneath their signatures. The witnesses', ~~and their~~ home or
6 business addresses and social security numbers, driver's
7 license numbers, or state identification card numbers must be
8 included. The absence of a social security number, driver's
9 license number, or state identification card number shall not
10 ~~be deemed to~~ invalidate the consent. The person who signs the
11 consent or the affidavit has the right to have at least one of
12 the witnesses be an individual who does not have an
13 employment, professional, or personal relationship with the
14 adoption entity or the prospective adoptive parents. The
15 adoption entity must give reasonable notice to the person
16 signing the consent or affidavit of the right to select a
17 witness of his or her own choosing. The person who signs the
18 consent or affidavit must acknowledge in writing on the
19 consent or affidavit that such notice was given and indicate
20 the witness, if any, who was selected by the person signing
21 the consent or affidavit. The adoption entity must include its
22 name, address, and telephone number on the consent to adoption
23 or affidavit of nonpaternity.

24 (e) A consent to adoption must contain, in at least
25 16-point boldfaced type, an acknowledgment of the parent's
26 rights in substantially the following form:

27
28 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
29 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
30 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
31 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE

1 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
 2 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
 3 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
 4 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
 5 OR WITNESSES YOU SELECTED, IF ANY.

6
 7 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
 8 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
 9 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

- 10
 11 1. CONSULT WITH AN ATTORNEY;
 12 2. HOLD, CARE FOR, AND FEED THE CHILD;
 13 3. PLACE THE CHILD IN FOSTER CARE OR WITH
 14 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
 15 WILLING TO CARE FOR THE CHILD;
 16 4. TAKE THE CHILD HOME UNLESS OTHERWISE
 17 LEGALLY PROHIBITED; AND
 18 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
 19 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
 20 THROUGH WITH THE ADOPTION.

21
 22 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
 23 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID
 24 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY
 25 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A
 26 CHILD WHO IS TO BE PLACED FOR ADOPTION WITH
 27 IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON
 28 THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
 29 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD
 30 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT
 31 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE

1 TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS
2 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT
3 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO
4 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
5 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY
6 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE
7 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
8 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
9 IT WAS OBTAINED BY FRAUD OR UNDER DURESS.

10
11 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO
12 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S
13 RELEASE FROM A LICENSED HOSPITAL OR BIRTH
14 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE
15 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
16 CHILD. WHILE THE CONSENT IS VALID AND BINDING
17 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.
18 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
19 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
20 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR
21 TO THE PLACEMENT OF THE CHILD WITH THE
22 PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT
23 WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
24 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
25 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
26 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
27 LATER.

28
29 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
30 PERIOD, YOU MUST:
31

- 1 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
2 A LETTER, THAT YOU ARE WITHDRAWING YOUR
3 CONSENT.
- 4 2. MAIL THE LETTER AT A UNITED STATES
5 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
6 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
7 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE
8 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
9 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
10 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
11 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.
- 12 3. SEND THE LETTER BY CERTIFIED UNITED
13 STATES MAIL WITH RETURN RECEIPT REQUESTED.
- 14 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
15 THE LETTER.
- 16 5. KEEP THE CERTIFIED MAIL RECEIPT AS
17 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
18 MANNER.
- 19
- 20 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
21 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
22 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,
23 IN WRITING BY CERTIFIED UNITED STATES MAIL,
24 RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY
25 YOU SHOULD NOTIFY IS: ...(name of adoption
26 entity)..., ...(address of adoption entity)...,
27 ...(phone number of adoption entity)....
- 28
- 29 ONCE THE REVOCATION PERIOD IS OVER, OR THE
30 CHILD HAS BEEN PLACED WITH THE PROSPECTIVE
31 ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU

1 MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN
2 PROVE IN COURT THAT CONSENT WAS OBTAINED BY
3 FRAUD OR UNDER DURESS.

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

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

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

1 which the United States Postal Service accepts certified mail
2 for delivery.

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

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

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

24 (e) The adoption entity must return the minor within 3
25 days after notification of the withdrawal of consent or after
26 the court determines that withdrawal is valid and binding upon
27 consideration of an emergency motion, as filed pursuant to
28 subsection (b), to the physical custody of the person
29 withdrawing consent.

30 (f) Following the revocation period for withdrawal of
31 consent described in paragraph (a), or the placement of the

1 child with the prospective adoptive parents, whichever occurs
2 later, consent may be withdrawn only when the court finds that
3 the consent was obtained by fraud or under duress.

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

7 Section 14. Section 63.085, Florida Statutes, is
8 amended to read:

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

11 63.085 Disclosure by adoption entity.--

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

25
26 ADOPTION DISCLOSURE

27
28 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
29 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
30 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
31

1 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
2 ADOPTION UNDER FLORIDA LAW:

3
4 1. Under section 63.102, Florida
5 Statutes, the existence of a placement or
6 adoption contract signed by the parent or
7 prospective adoptive parent, prior approval of
8 that contract by the court, or payment of any
9 expenses permitted under Florida law does not
10 obligate anyone to sign a consent or ultimately
11 place a minor for adoption.

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

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

21 4. Under section 63.082, Florida
22 Statutes, if the minor is to be placed for
23 adoption with identified prospective adoptive
24 parents 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 with the prospective adoptive parent
7 upon release from the hospital or birth center
8 following birth, a 3-day revocation period
9 applies during which consent may be withdrawn
10 for any reason by notifying the adoption entity
11 in writing. In order to withdraw consent, the
12 written withdrawal of consent must be mailed at
13 a United States Post Office no later than 3
14 business days after execution of the consent or
15 1 business day after the date of the birth
16 mother's discharge from a licensed hospital or
17 birth center, whichever occurs later. For
18 purposes of mailing the withdrawal of consent,
19 the term "business day" means any day on which
20 the United States Postal Service accepts
21 certified mail for delivery. The letter must be
22 sent by certified United States mail, return
23 receipt requested. Postal costs must be paid at
24 the time of mailing and the receipt should be
25 retained as proof that consent was withdrawn in
26 a timely manner.

27 6. Under section 63.082, Florida
28 Statutes, and notwithstanding the revocation
29 period, the consent may be withdrawn at any
30 time prior to the placement of the child with
31 the prospective adoptive parent, by notifying

1 the adoption entity in writing by certified
2 United States mail, return receipt requested.

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

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

27 9. Under section 63.082, Florida
28 Statutes, a person who signs a consent to
29 adoption or an affidavit of nonpaternity must
30 be given reasonable notice of his or her right
31 to select a person who does not have an

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

6 10. Under section 63.088, Florida
7 Statutes, specific and extensive efforts are
8 required by law to attempt to obtain the
9 consents required under section 63.062, Florida
10 Statutes. If these efforts are unsuccessful,
11 the court may not enter a judgment terminating
12 parental rights pending adoption until certain
13 requirements have been met.

14 11. Under Florida law, an intermediary
15 may represent the legal interests of only the
16 prospective adoptive parents. Each person whose
17 consent to an adoption is required under
18 section 63.062, Florida Statutes, is entitled
19 to seek independent legal advice and
20 representation before signing any document or
21 surrendering parental rights.

22 12. Under section 63.182, Florida
23 Statutes, an action or proceeding of any kind
24 to vacate, set aside, or otherwise nullify a
25 judgment of adoption or an underlying judgment
26 terminating parental rights pending adoption,
27 on any ground, including duress but excluding
28 fraud, must be filed within 1 year after entry
29 of the judgment terminating parental rights
30 pending adoption. Such an action or proceeding
31 for fraud must be filed within 2 years after

1 entry of the judgment terminating parental
2 rights.

3 13. Under section 63.089, Florida
4 Statutes, a judgment terminating parental
5 rights pending adoption is voidable and any
6 later judgment of adoption of that minor is
7 voidable if, upon the motion of a parent, the
8 court finds that any person knowingly gave
9 false information that prevented the parent
10 from timely making known his or her desire to
11 assume parental responsibilities toward the
12 minor or to exercise his or her parental
13 rights. The motion must be filed with the court
14 that originally entered the judgment. The
15 motion must be filed within a reasonable time,
16 but not later than 2 years after the date the
17 judgment to which the motion is directed was
18 entered.

19 14. Under section 63.165, Florida
20 Statutes, the State of Florida maintains a
21 registry of adoption information. Information
22 about the registry is available from the
23 Department of Children and Family Services.

24 15. Under section 63.032, Florida
25 Statutes, a court may find that a parent has
26 abandoned his or her child based on conduct
27 during the pregnancy or based on conduct after
28 the child is born. In addition, under section
29 63.089, Florida Statutes, the failure of a
30 parent to respond to notices of proceedings
31 involving his or her child shall result in

1 termination of parental rights of a parent. A
2 lawyer can explain what a parent must do to
3 protect his or her parental rights. Any parent
4 wishing to protect his or her parental rights
5 should act IMMEDIATELY.

6 16. Each parent and prospective adoptive
7 parent is entitled to independent legal advice
8 and representation. Attorney information may be
9 obtained from the yellow pages, The Florida
10 Bar's lawyer referral service, and local legal
11 aid offices and bar associations.

12 17. Counseling services may be helpful
13 while making a parenting decision. Consult the
14 yellow pages of the telephone directory.

15 18. Medical and social services support
16 is available if the parent wishes to retain
17 parental rights and responsibilities. Consult
18 the Department of Children and Family Services.

19 19. Under section 63.039, Florida
20 Statutes, an adoption entity has certain legal
21 responsibilities and may be liable for damages
22 to persons whose consent to an adoption is
23 required or to prospective adoptive parents for
24 failing to materially meet those
25 responsibilities. Damages may also be recovered
26 from an adoption entity if a consent to
27 adoption or affidavit of nonpaternity is
28 obtained by fraud or under duress attributable
29 to an adoption entity.

30 20. Under section 63.097, Florida
31 Statutes, reasonable living expenses of the

1 birth mother may be paid by the prospective
2 adoptive parents and the adoption entity only
3 if the birth mother is unable to pay due to
4 unemployment, underemployment, or disability.
5 The law also allows payment of reasonable and
6 necessary medical expenses, expenses necessary
7 to comply with the requirements of chapter 63,
8 Florida Statutes, court filing expenses, and
9 costs associated with advertising. Certain
10 documented legal, counseling, and other
11 professional fees may be paid. Prior approval
12 of the court is not required until the
13 cumulative total of amounts permitted exceeds
14 \$2,500 in legal or other fees, \$500 in court
15 costs, \$3,000 in expenses or \$1,500 in
16 cumulative expenses incurred prior to the date
17 the prospective adoptive parent retains the
18 adoption entity. The following fees, costs, and
19 expenses are prohibited:

- 20 a. Any fee or expense that constitutes
21 payment for locating a minor for adoption.
22 b. Any lump-sum payment to the entity
23 which is nonrefundable directly to the payor or
24 which is not itemized on the affidavit.
25 c. Any fee on the affidavit which does
26 not specify the service that was provided and
27 for which the fee is being charged, such as a
28 fee for facilitation or acquisition.

29
30 The court may reduce amounts charged or refund
31 amounts that have been paid if it finds that

1 these amounts were more than what was
2 reasonable or allowed under the law.
3 21. Under section 63.132, Florida
4 Statutes, the adoption entity and the
5 prospective adoptive parents must sign and file
6 with the court a written statement under oath
7 listing all the fees, expenses, and costs made,
8 or agreed to be made, by or on behalf of the
9 prospective adoptive parents and any adoption
10 entity in connection with the adoption. The
11 affidavit must state whether any of the
12 expenses were eligible to be paid for by any
13 other source.

14 22. Under section 63.132, Florida
15 Statutes, the court order approving the money
16 spent on the adoption must be separate from the
17 judgment making the adoption final. The court
18 may approve only certain costs and expenses
19 allowed under s. 63.097. The court may approve
20 only fees that are allowed under law and that
21 it finds to be "reasonable." A good idea of
22 what is and is not allowed to be paid for in an
23 adoption can be determined by reading sections
24 63.097 and 63.132, Florida Statutes.

25
26 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
27 must obtain a written statement acknowledging receipt of the
28 disclosure required under subsection (1) and signed by the
29 persons receiving the disclosure or, if it is not possible to
30 obtain such an acknowledgment, the adoption entity must
31 execute an affidavit stating why an acknowledgment could not

1 be obtained. If the disclosure was delivered by certified
2 United States mail, return receipt requested, a return receipt
3 signed by the person from whom acknowledgment is required is
4 sufficient to meet the requirements of this subsection. A copy
5 of the acknowledgment of receipt of the disclosure must be
6 provided to the person signing it. A copy of the
7 acknowledgment or affidavit executed by the adoption entity in
8 lieu of the acknowledgment must be maintained in the file of
9 the adoption entity. The original acknowledgment or affidavit
10 must be filed with the court. In the case of a disclosure
11 provided under subsection (1), the original acknowledgment or
12 affidavit must be included in the preliminary home study
13 required in s. 63.092.

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

19 Section 15. Section 63.087, Florida Statutes, is
20 created to read:

21 63.087 Proceeding to terminate parental rights pending
22 adoption; general provisions.--

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

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

30 (3) JURISDICTION.--A court of this state which is
31 competent to decide child welfare or custody matters has

1 jurisdiction to hear all matters arising from a proceeding to
2 terminate parental rights pending adoption. All subsequent
3 proceedings for the adoption of the minor, if the petition for
4 termination is granted, must be conducted by the same judge
5 who conducted the termination proceedings, if that judge is
6 still available within the division of the court which
7 conducts termination or adoption cases or, if that judge is
8 unavailable, by another judge within the division.

9 (4) VENUE.--

10 (a) A petition to terminate parental rights pending
11 adoption must be filed:

12 1. In the county where the child resided for the
13 previous 6 months;

14 2. If the child is younger than 6 months of age or has
15 not continuously resided in one county for the previous 6
16 months, in the county where the parent resided at the time of
17 the execution of the consent to adoption or the affidavit of
18 nonpaternity;

19 3. If the child is younger than 6 months of age and a
20 waiver of venue has been obtained pursuant to 63.062 in the
21 county where the adoption entity is located or, if the
22 adoption entity has more than one place of business, in the
23 county which is located in closest proximity to the county in
24 which the parent whose rights are to be terminated resided at
25 the time of execution of the consent or affidavit of
26 nonpaternity; or

27 4. If there is no consent or affidavit of nonpaternity
28 executed by a parent, in the county where the birth mother
29 resides.

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

1 (b) Regardless of the age of the child, if the
2 adoption entity is notified that a parent whose parental
3 rights are to be terminated intends to contest the
4 termination, venue must be in the county where that parent
5 resides. If there is no such residence in this state, venue
6 must be in the county where:

7 1. At least one parent whose rights are to be
8 terminated resides; or

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

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

13 (c) If a petition for termination of parental rights
14 has been filed and a parent whose rights are to be terminated
15 objects to venue, there shall be a hearing in which the court
16 shall immediately transfer venue to one of the counties listed
17 in this subsection. The court is to consider for purposes of
18 selecting venue the ease of access to the court of the parent
19 who intends to contest a termination of parental rights.

20 (d) If there is a transfer of venue, the adoption
21 entity or the petitioner shall bear the cost of venue
22 transfer.

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

29 (6) PETITION.--

30 (a) A proceeding seeking to terminate parental rights
31 pending adoption pursuant to this chapter must be initiated by

1 the filing of an original petition after the birth of the
2 minor.

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

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

11 (d) A petition to terminate parental rights may be
12 consolidated with a previously filed petition for a
13 declaratory statement filed under s. 63.102. Only one filing
14 fee may be assessed for both the termination of parental
15 rights and declaratory-statement petitions.

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

23 (f) The petition must include:

24 1. The minor's name, gender, date of birth, and place
25 of birth. The petition must contain all names by which the
26 minor is or has been known, excluding the minor's prospective
27 adoptive name but including the minor's legal name at the time
28 of the filing of the petition, to allow interested parties to
29 the action, including parents, persons having legal custody of
30 the minor, persons with custodial or visitation rights to the
31 minor, and persons entitled to notice pursuant to the Uniform

1 Child Custody Jurisdiction Act or the Indian Child Welfare
2 Act, to identify their own interest in the action.

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

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

14 a. The minor's mother;

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

17 c. Any person who has legal custody, as defined in s.
18 39.01, of the minor.

19
20 If a required name or address is not known, the petition must
21 so state.

22 4. All information required by the Uniform Child
23 Custody Jurisdiction Act and the Indian Child Welfare Act.

24 5. A statement of the grounds under s. 63.089 upon
25 which the petition is based.

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

28 7. The name, address, and telephone number of the
29 division of the circuit court in which the petition is to be
30 filed.

31

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

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

15 (b) Be given an opportunity to deny the allegations in
16 the petition; and

17 (c) Be given the opportunity to challenge the validity
18 of any consent or affidavit of nonpaternity signed by any
19 person.

20 Section 16. Section 63.088, Florida Statutes, is
21 created to read:

22 63.088 Proceeding to terminate parental rights pending
23 adoption; notice and service; diligent search.--

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

1 than 7 days after the date any money is provided as permitted
2 under this chapter by the adoption entity for the benefit of
3 the person seeking to place a minor for adoption.

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

15
16 NOTICE OF PETITION AND HEARING

17 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

18
19 A petition to terminate parental rights pending
20 adoption has been filed. A copy of the petition
21 is being served with this notice. There will be
22 a hearing on the petition to terminate parental
23 rights pending adoption on ... (date) ... at
24 ... (time) ... before ... (judge) ... at ...
25 (location, including complete name and street
26 address of the courthouse) The court has
27 set aside ... (amount of time) ... for this
28 hearing. If you executed a consent or an
29 affidavit of nonpaternity and a waiver of
30 venue, you have the right to request that the
31

1 termination of parental rights hearing be
2 transferred to the county in which you reside.

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

10
11 (3) REQUIRED INQUIRY.--In proceedings initiated under
12 s. 63.087, the court must conduct an inquiry of the person who
13 is placing the minor for adoption and of any relative or
14 person having legal custody of the minor who is present at the
15 hearing and likely to have the following information regarding
16 the identity of:

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

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

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

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

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

31

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

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

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

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

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

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

31

1 profit-sharing plan and any address to which pension or other
2 funds have been mailed;

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

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

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

13 Relatives include, but are not limited to, parents, brothers,
14 sisters, aunts, uncles, cousins, nieces, nephews,
15 grandparents, great-grandparents, former or current in-laws,
16 stepparents, and stepchildren;

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

19 (g) Telephone listings in the area where the person
20 last resided;

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

23 (i) Highway patrol records in the state where the
24 person last resided;

25 (j) Department of Corrections records in the state
26 where the person last resided;

27 (k) Hospitals in the area where the person last
28 resided;

29 (l) Records of utility companies, including water,
30 sewer, cable television, and electric companies, in the area
31 where the person last resided;

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

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

5 (o) Search of one Internet databank locator service;
6 and

7 (p) Information held by all medical providers who
8 rendered medical treatment or care to the birth mother and
9 child, including the identity and location information of all
10 persons listed by the mother as being financially responsible
11 for the uninsured expenses of treatment or care and all
12 persons who made any such payments.

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

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

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

15 Section 17. Section 63.089, Florida Statutes, is
16 created to read:

17 63.089 Proceeding to terminate parental rights pending
18 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

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

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

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

29 3. Notice has been provided under ss. 63.087 and
30 63.088;

31

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

3 1. At least 30 days have elapsed since the date of
4 personal service and an affidavit of service has been filed
5 with the court;

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

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

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

12 (d) The petition contains all information required
13 under s. 63.087 and all affidavits of inquiry, diligent
14 search, and service required under s. 63.088 have been
15 obtained and filed with the court.

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

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

25 (b) Has executed an affidavit of nonpaternity and the
26 affidavit was obtained according to the requirements of this
27 chapter;

28 (c) Has been properly served notice of the proceeding
29 in accordance with the requirements of this chapter and has
30 failed to file a written answer or appear at the evidentiary
31

1 hearing resulting in the judgment terminating parental rights
2 pending adoption;

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

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

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

16 (g) Has been properly served notice of the proceeding
17 in accordance with the requirements of this chapter, but whom
18 the court finds, after examining written reasons for the
19 withholding of consent, to be unreasonably withholding his or
20 her consent; or

21 (h) Is the spouse of the person to be adopted who has
22 failed to consent, and the failure of the spouse to consent to
23 the adoption is excused by reason of prolonged and unexplained
24 absence, unavailability, incapacity, or circumstances that are
25 found by the court to constitute unreasonable withholding of
26 consent.

27 (4) FINDING OF ABANDONMENT.--A finding of abandonment
28 resulting in a termination of parental rights must be based
29 upon clear and convincing evidence. A finding of abandonment
30 may not be based upon a lack of emotional support to a birth
31

1 mother during her pregnancy, but may be based upon emotional
2 abuse to a birth mother during her pregnancy.

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

6 1. Whether the actions alleged to constitute
7 abandonment demonstrate a willful disregard for the safety or
8 welfare of the child or unborn child;

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

12 3. Whether the person alleged to have abandoned the
13 child, while being able, refused to provide financial support
14 after such person was informed he may be the father of the
15 child;

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

21 5. Whether the amount of support provided or medical
22 expenses paid was appropriate, taking into consideration the
23 needs of the child and relative means and resources available
24 to the person alleged to have abandoned the child and
25 available to the person having legal custody of the child
26 during the period the child allegedly was abandoned; and

27 6. Whether the person having legal custody of the
28 child made the child's whereabouts known to the person alleged
29 to have abandoned the child, advised that person of the needs
30 of the child or the needs of the mother of an unborn child
31 with regard to the pregnancy, or informed that person of

1 events such as medical appointments and tests relating to the
2 child or, if unborn, the pregnancy.

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

6 1. The period of time for which the parent is expected
7 to be incarcerated will constitute a substantial portion of
8 the period of time before the child will attain the age of 18
9 years;

10 2. The incarcerated parent has been determined by the
11 court to be a violent career criminal as defined in s.
12 775.084, a habitual violent felony offender as defined in s.
13 775.084, convicted of child abuse as defined in s. 827.03, or
14 a sexual predator as defined in s. 775.21; has been convicted
15 of first degree or second degree murder in violation of s.
16 782.04 or a sexual battery that constitutes a capital, life,
17 or first degree felony violation of s. 794.011; or has been
18 convicted of an offense in another jurisdiction which is
19 substantially similar to one of the offenses listed in this
20 paragraph. As used in this section, the term "substantially
21 similar offense" means any offense that is substantially
22 similar in elements and penalties to one of those listed in
23 this paragraph, and that is in violation of a law of any other
24 jurisdiction, whether that of another state, the District of
25 Columbia, the United States or any possession or territory
26 thereof, or any foreign jurisdiction; and

27 3. The court determines by clear and convincing
28 evidence that continuing the parental relationship with the
29 incarcerated parent would be harmful to the child and, for
30 this reason, that termination of the parental rights of the
31 incarcerated parent is in the best interest of the child.

1 (c) The only conduct of a father toward a mother
2 during pregnancy that the court may consider in determining
3 whether the child has been abandoned is conduct that occurred
4 after the father was informed he may be the father of the
5 child or after diligent search and notice as provided in s.
6 63.088 have been made to inform the father that he is, or may
7 be, the father of the child.

8 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
9 court does not find by clear and convincing evidence that
10 parental rights of a parent should be terminated pending
11 adoption, the court must dismiss the petition with prejudice
12 and that parent's parental rights that were the subject of
13 such petition remain in full force under the law. The order
14 must include written findings in support of the dismissal,
15 including findings as to the criteria in subsection (4) if
16 rejecting a claim of abandonment. Parental rights may not be
17 terminated based upon a consent that the court finds has been
18 timely withdrawn under s. 63.082 or a consent to adoption or
19 affidavit of nonpaternity that the court finds was obtained by
20 fraud or under duress. The court must enter an order based
21 upon written findings providing for the placement of the
22 minor. The court may order scientific testing to determine the
23 paternity of the minor at any time during which the court has
24 jurisdiction over the minor. Further proceedings, if any,
25 regarding the minor must be brought in a separate custody
26 action under chapter 61, a dependency action under chapter 39,
27 or a paternity action under chapter 742.

28 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
29 ADOPTION.--
30
31

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

4 (b) Within 24 hours after filing, the clerk of the
5 court shall mail a copy of the judgment to the department, the
6 petitioner, those persons required to give consent under s.
7 63.062, and the respondent. The clerk shall execute a
8 certificate of each mailing.

9 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
10 RIGHTS.--

11 (a) A judgment terminating parental rights pending
12 adoption is voidable and any later judgment of adoption of
13 that minor is voidable if, upon the motion of a parent, the
14 court finds that a person knowingly gave false information
15 that prevented the parent from timely making known his or her
16 desire to assume parental responsibilities toward the minor or
17 meeting the requirements under this chapter to exercise his or
18 her parental rights. A motion under this subsection must be
19 filed with the court originally entering the judgment. The
20 motion must be filed within a reasonable time, but not later
21 than 2 years after the entry of the judgment terminating
22 parental rights.

23 (b) No later than 30 days after the filing of a motion
24 under this subsection, the court must conduct a preliminary
25 hearing to determine what contact, if any, shall be permitted
26 between a parent and the child pending resolution of the
27 motion. Such contact shall be considered only if it is
28 requested by a parent who has appeared at the hearing. If the
29 court orders contact between a parent and child, the order
30 must be issued in writing as expeditiously as possible and
31

1 must state with specificity any provisions regarding contact
2 with persons other than those with whom the child resides.

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

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

18 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
19 records pertaining to a petition to terminate parental rights
20 pending adoption are related to the subsequent adoption of the
21 minor and are subject to the provisions of s. 63.162. The
22 confidentiality provisions of this chapter do not apply to the
23 extent information regarding persons or proceedings must be
24 made available as specified under s. 63.088.

25 Section 18. Section 63.092, Florida Statutes, 1998
26 Supplement, is amended to read:

27 63.092 Report to the court of intended placement by an
28 adoption entity; at-risk placement intermediary; preliminary
29 study.--

30 (1) REPORT TO THE COURT.--The adoption entity
31 ~~intermediary~~ must report any intended placement of a minor for

1 adoption with any person not related within the third degree
2 or a stepparent if the adoption entity intermediary has
3 knowledge of, or participates in, such intended placement. The
4 report must be made to the court before the minor is placed in
5 the home.

6 (2) AT-RISK PLACEMENT.--If the minor is placed in the
7 prospective adoptive home before the parental rights of the
8 minor's parents are terminated under s. 63.089, the placement
9 is an at-risk placement. If the placement is an at-risk
10 placement, the prospective adoptive parents must acknowledge
11 in writing before the minor may be placed in the prospective
12 adoptive home that the placement is at risk and that the minor
13 is subject to removal from the prospective adoptive home by
14 the adoption entity or by court order.

15 (3)(2) PRELIMINARY HOME STUDY.--Before placing the
16 minor in the intended adoptive home, a preliminary home study
17 must be performed by a licensed child-placing agency, a
18 licensed professional, or agency described in s. 61.20(2),
19 unless the petitioner is a stepparent, a spouse of the ~~birth~~
20 parent, or a relative. The preliminary study shall be
21 completed within 30 days after the receipt by the court of the
22 adoption entity's intermediary's report, but in no event may
23 the minor ~~child~~ be placed in the prospective adoptive home
24 prior to the completion of the preliminary study unless
25 ordered by the court. If the petitioner is a stepparent, a
26 spouse of the ~~birth~~ parent, or a relative, the preliminary
27 home study may be required by the court for good cause shown.
28 The department is required to perform the preliminary home
29 study only if there is no licensed child-placing agency,
30 licensed professional, or agency described in s. 61.20(2), in
31 the county where the prospective adoptive parents reside. The

1 preliminary home study must be made to determine the
2 suitability of the intended adoptive parents and may be
3 completed prior to identification of a prospective adoptive
4 minor child. A favorable preliminary home study is valid for
5 1 year after the date of its completion. A minor may child
6 ~~must~~ not be placed in an intended adoptive home before a
7 favorable preliminary home study is completed unless the
8 adoptive home is also a licensed foster home under s. 409.175.
9 The preliminary home study must include, at a minimum:
10 (a) An interview with the intended adoptive parents;
11 (b) Records checks of the department's central abuse
12 registry and criminal records correspondence checks pursuant
13 to s. 435.045 through the Department of Law Enforcement on the
14 intended adoptive parents;
15 (c) An assessment of the physical environment of the
16 home;
17 (d) A determination of the financial security of the
18 intended adoptive parents;
19 (e) Documentation of counseling and education of the
20 intended adoptive parents on adoptive parenting;
21 (f) Documentation that information on adoption and the
22 adoption process has been provided to the intended adoptive
23 parents;
24 (g) Documentation that information on support services
25 available in the community has been provided to the intended
26 adoptive parents; and
27 (h) A copy of each ~~the~~ signed acknowledgment statement
28 required by s. 63.085~~+~~ ~~and~~
29 ~~(i) A copy of the written acknowledgment required by~~
30 ~~s. 63.085(1).~~
31

1 If the preliminary home study is favorable, a minor may be
2 placed in the home pending entry of the judgment of adoption.
3 A minor may not be placed in the home if the preliminary home
4 study is unfavorable. If the preliminary home study is
5 unfavorable, the adoption entity ~~intermediary or petitioner~~
6 may, within 20 days after receipt of a copy of the written
7 recommendation, petition the court to determine the
8 suitability of the intended adoptive home. A determination as
9 to suitability under this subsection does not act as a
10 presumption of suitability at the final hearing. In
11 determining the suitability of the intended adoptive home, the
12 court must consider the totality of the circumstances in the
13 home.

14 Section 19. Section 63.097, Florida Statutes, is
15 amended to read:

16 63.097 Fees.--

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

20 (a) Foster care expenses;

21 (b) Preplacement and post-placement social services;

22 and

23 (c) Agency facility and administrative costs.

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

27 (a) Reasonable living expenses of the birth mother
28 which the birth mother is unable to pay due to unemployment,
29 underemployment, or disability due to the pregnancy which is
30 certified by a medical professional who has examined the birth
31 mother, or any other disability defined in s. 110.215.

1 Reasonable living expenses are rent, utilities, basic
2 telephone service, food, necessary clothing, transportation,
3 and expenses found by the court to be necessary for the health
4 of the unborn child.

5 (b) Reasonable and necessary medical expenses.

6 (c) Expenses necessary to comply with the requirements
7 of this chapter, including, but not limited to, service of
8 process under s. 63.088, a diligent search under s. 63.088, a
9 preliminary home study under s. 63.092, and a final home
10 investigation under s. 63.125.

11 (d) Court filing expenses, court costs, and other
12 litigation expenses.

13 (e) Costs associated with advertising under s.
14 63.212(1)(g).

15 (f) The following professional fees:

16 1. A reasonable hourly fee necessary to provide legal
17 representation to the adoptive parents or adoption entity in a
18 proceeding filed under this chapter.

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

29 3. A reasonable hourly fee for counseling services
30 provided to a parent or a prospective adoptive parent by a
31 psychologist licensed under chapter 490 or a clinical social

1 worker, marriage and family therapist, or mental health
2 counselor licensed under chapter 491, or a counselor who is
3 employed by an adoption entity accredited by the Council on
4 Accreditation of Services for Children and Families to provide
5 pregnancy counseling and supportive services.

6 (3) Prior approval of the court is not required until
7 the cumulative total of amounts permitted under subsection (2)
8 exceeds:

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

10 (b) \$500 in court costs;

11 (c) \$3,000 in expenses; or

12 (d) \$1,500 cumulative expenses that are related to the
13 minor, the pregnancy, a parent, or adoption proceeding, which
14 expenses are incurred prior to the date the prospective
15 adoptive parent retains the adoption entity.

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

20 (5) The following fees, costs, and expenses are
21 prohibited:

22 (a) Any fee or expense that constitutes payment for
23 locating a minor for adoption.

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

27 (c) Any fee on the affidavit which does not specify
28 the service that was provided and for which the fee is being
29 charged, such as a fee for facilitation, acquisition, or other
30 similar service, or which does not identify the date the
31 service was provided, the time required to provide the

1 service, the person or entity providing the service, and the
2 hourly fee charged.

3 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~
4 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~
5 ~~\$2,500, paid to an intermediary other than actual, documented~~
6 ~~medical costs, court costs, and hospital costs must be~~
7 ~~approved by the court prior to assessment of the fee by the~~
8 ~~intermediary and upon a showing of justification for the~~
9 ~~larger fee.~~

10 ~~(6)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--Unless~~
11 ~~otherwise indicated in this section, when an adoption entity~~
12 ~~intermediary uses the services of a licensed child-placing~~
13 ~~agency, a professional, any other person or agency pursuant to~~
14 ~~s. 63.092, or, if necessary, the department, the person~~
15 ~~seeking to adopt the child must pay the licensed child-placing~~
16 ~~agency, professional, other person or agency, or the~~
17 ~~department an amount equal to the cost of all services~~
18 ~~performed, including, but not limited to, the cost of~~
19 ~~conducting the preliminary home study, counseling, and the~~
20 ~~final home investigation. The court, upon a finding that the~~
21 ~~person seeking to adopt the child is financially unable to pay~~
22 ~~that amount, may order that such person pay a lesser amount.~~

23 Section 20. Section 63.102, Florida Statutes, is
24 amended to read:

25 63.102 Filing of petition for adoption or declaratory
26 statement; venue; proceeding for approval of fees and costs.--

27 (1) A petition for adoption may not be filed until 30
28 days after the date of the entry of the judgment terminating
29 parental rights pending adoption under this chapter, unless
30 the adoptee is an adult or the minor has been the subject of a
31 judgment terminating parental rights under chapter 39. After a

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

10 (2) A petition for adoption or for a declaratory
11 statement as to the adoption contract shall be filed in the
12 county where the petition for termination of parental rights
13 was granted, unless the court in accordance with s. 47.122,
14 changes the venue to the county where the petitioner or
15 petitioners or the minor child resides or where the agency or
16 adoption entity with in which the minor child has been placed
17 is located. The circuit court in this state must retain
18 jurisdiction over the matter until a final judgment is entered
19 on the adoption. The Uniform Child Custody Jurisdiction Act
20 does not apply until a final judgment is entered on the
21 adoption.

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

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

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

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

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

30 (c) The court may grant prior approval only of fees
31 and expenses permitted under s. 63.097. A prior approval of

1 prospective fees and costs does not create a presumption that
2 these items will subsequently be approved by the court under
3 s. 63.132. The court, under s. 63.132, may order an adoption
4 entity to refund any amount paid under this subsection that is
5 subsequently found by the court to be greater than fees,
6 costs, and expenses actually incurred.

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

11 (e) A petition for adoption filed under this section
12 may be consolidated with a previously filed petition for a
13 declaratory statement. Only one filing fee may be assessed for
14 both the adoption and declaratory-statement petitions.

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

20 Section 21. Section 63.112, Florida Statutes, is
21 amended to read:

22 63.112 Petition for adoption; description; report or
23 recommendation, exceptions; mailing.--

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

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

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

31

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

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

5 (e) The marital status of the petitioner, including
6 the date and place of marriage, if married, and divorces, if
7 any;

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

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

13 (h) The case style and date of entry of the judgment
14 terminating parental rights or the judgment declaring a minor
15 available for adoption name and address, if known, of any
16 person whose consent to the adoption is required, but who has
17 not consented, and facts or circumstances that excuse the lack
18 of consent; and

19 (i) The reasons why the petitioner desires to adopt
20 the person.

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

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

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

31

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

3 1. ~~The birth mother, if parental rights have not been~~
4 ~~terminated;~~

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

7 3. the minor child, if older than 12 years of age,
8 unless the court, in the best interest of the minor child,
9 dispenses with the minor's ~~child's~~ consent under s.

10 63.062(1)(f)~~63.062(1)(c)~~.

11
12 ~~The court may waive the requirement for an interview with the~~
13 ~~birth mother or birth father in the investigation for good~~
14 ~~cause shown.~~

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

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

23 Section 22. Section 63.122, Florida Statutes, is
24 amended to read:

25 63.122 Notice of hearing on petition.--

26 (1) After the petition to adopt a minor is filed, the
27 court must establish a time and place for hearing the
28 petition. The hearing may ~~must~~ not be held sooner than 30 days
29 after the date the judgment terminating parental rights was
30 entered or sooner than 90 days after the date the minor was
31 placed ~~the placing of the minor~~ in the physical custody of the

1 petitioner. The minor must remain under the supervision of
2 the adoption entity ~~department, an intermediary, or a licensed~~
3 ~~child-placing agency~~ until the adoption becomes final. When
4 the petitioner is a spouse of the birth parent, the hearing
5 may be held immediately after the filing of the petition.

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

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

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

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

19 ~~(b) The intermediary.~~

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

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

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

30 Section 23. Section 63.125, Florida Statutes, is
31 amended to read:

1 63.125 Final home investigation.--

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

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

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

26 (4) The department, the licensed child-placing agency,
27 or the professional making the required investigation may
28 request other state agencies or child-placing agencies within
29 or outside this state to make investigations of designated
30 parts of the inquiry and to make a written report to the
31 department, the professional, or other person or agency.

- 1 (5) The final home investigation must include:
2 (a) The information from the preliminary home study.
3 (b) After the minor child is placed in the intended
4 adoptive home, two scheduled visits with the minor child and
5 the minor's child's adoptive parent or parents, one of which
6 visits must be in the home, to determine the suitability of
7 the placement.
8 (c) The family social and medical history as provided
9 in s. 63.082.
10 (d) Any other information relevant to the suitability
11 of the intended adoptive home.
12 (e) Any other relevant information, as provided in
13 rules that the department may adopt.

14 Section 24. Section 63.132, Florida Statutes, is
15 amended to read:

16 63.132 Affidavit Report of expenses ~~expenditures~~ and
17 receipts.--

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

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

26 (b) The affidavit must itemize ~~containing a full~~
27 ~~accounting of~~ all disbursements and receipts of anything of
28 value, including professional and legal fees, made or agreed
29 to be made by or on behalf of the prospective adoptive parent
30 ~~petitioner~~ and any adoption entity intermediary in connection
31 with the adoption or in connection with any prior proceeding

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

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

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

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

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

14 3.(c) The medical or hospital care received by the
15 mother or by the minor during the mother's prenatal care and
16 confinement.

17 4.(d) The living expenses of the birth mother. The
18 living expenses must be documented in detail to apprise the
19 court of the exact expenses incurred.

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

24
25 The affidavit must state whether any of these expenses were
26 paid for by collateral sources, including, but not limited to,
27 health insurance, Medicaid, Medicare, or public assistance.

28 (2) The court may require such additional information
29 as is deemed necessary.

30 (3) The court must issue a separate order approving or
31 disapproving the fees, costs, and expenses itemized in the

1 affidavit. The court may approve only fees, costs, and
2 expenditures allowed under s. 63.097. The court may reject in
3 whole or in part any fee, cost, or expenditure listed if the
4 court finds that the expense is:

5 (a) Contrary to this chapter;

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

8 (c) Not a reasonable fee or expense, considering the
9 requirements of this chapter and the totality of the
10 circumstances.

11 (4)(3) This section does not apply to an adoption by a
12 stepparent whose spouse is a ~~natural or adoptive~~ parent of the
13 minor child.

14 Section 25. Section 63.142, Florida Statutes, is
15 amended to read:

16 63.142 Hearing; judgment of adoption.--

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

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

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

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

27 (3) DISMISSAL.--

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

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

1 (4) JUDGMENT.--At the conclusion of the hearing, after
2 when the court determines that the date for a parent to file
3 an appeal of a valid judgment terminating that parent's
4 parental rights has passed and no appeal, pursuant to the
5 Florida Rules of Appellate Procedure, is pending ~~all necessary~~
6 ~~consents have been obtained~~ and that the adoption is in the
7 best interest of the person to be adopted, a judgment of
8 adoption shall be entered.

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

21 (b) Except upon good cause shown, no later than 30
22 days after the filing of a motion under this subsection, the
23 court must conduct a preliminary hearing to determine what
24 contact, if any, shall be permitted between a parent and the
25 child pending resolution of the motion. Such contact shall be
26 considered only if it is requested by a parent who has
27 appeared at the hearing. If the court orders contact between a
28 parent and child, the order must be issued in writing as
29 expeditiously as possible and must state with specificity any
30 provisions regarding contact with persons other than those
31 with whom the child resides.

1 (c) At the preliminary hearing, the court, upon the
2 motion of any party or its own motion, may order scientific
3 testing to determine the paternity of the minor if the person
4 seeking to set aside the judgment is alleging to be the
5 child's father and that fact has not previously been
6 determined by legitimacy or scientific testing. The court may
7 order supervised visitation with a person for whom scientific
8 testing for paternity has been ordered. Such visitation shall
9 be conditioned upon the filing of those test results with the
10 court and such results establishing that person's paternity of
11 the minor.

12 (d) Except upon good cause shown, no later than 45
13 days after the preliminary hearing, the court must conduct a
14 final hearing on the motion to set aside the judgment and
15 issue its written order as expeditiously as possible
16 thereafter.

17 Section 26. Subsection (2) of section 63.162, Florida
18 Statutes, is amended to read:

19 63.162 Hearings and records in adoption proceedings;
20 confidential nature.--

21 (2) All papers and records pertaining to the adoption,
22 including the original birth certificate, whether part of the
23 permanent record of the court or a file in the office of an
24 adoption entity department, ~~in a licensed child-placing~~
25 ~~agency, or in the office of an intermediary~~ are confidential
26 and subject to inspection only upon order of the court;
27 however, the petitioner in any proceeding for adoption under
28 this chapter may, at the option of the petitioner, make public
29 the reasons for a denial of the petition for adoption. The
30 order must specify which portion of the records are subject to
31 inspection, and it may exclude the name and identifying

1 information concerning the ~~birth~~ parent or adoptee. Papers and
2 records of the department, a court, or any other governmental
3 agency, which papers and records relate to adoptions, are
4 exempt from s. 119.07(1). In the case of a nonagency
5 adoption, the department must be given notice of hearing and
6 be permitted to present to the court a report on the
7 advisability of disclosing or not disclosing information
8 pertaining to the adoption. In the case of an agency
9 adoption, the licensed child-placing agency must be given
10 notice of hearing and be permitted to present to the court a
11 report on the advisability of disclosing or not disclosing
12 information pertaining to the adoption. This subsection does
13 not prohibit the department from inspecting and copying any
14 official record pertaining to the adoption that is maintained
15 by the department and does not prohibit an agency from
16 inspecting and copying any official record pertaining to the
17 adoption that is maintained by that agency.

18 Section 27. Section 63.165, Florida Statutes, is
19 amended to read:

20 63.165 State registry of adoption information; duty to
21 inform and explain.--Notwithstanding any other law to the
22 contrary, the department shall maintain a registry with the
23 last known names and addresses of an adoptee and his or her
24 ~~natural~~ parents whose consent was required under s. 63.062,
25 and adoptive parents and any other identifying information
26 that ~~which~~ the adoptee, ~~natural~~ parents whose consent was
27 required under s. 63.062, or adoptive parents desire to
28 include in the registry. The department shall maintain the
29 registry records for the time required by rules adopted by the
30 department in accordance with this chapter or for 99 years,
31 whichever period is greater.The registry shall be open with

1 respect to all adoptions in the state, regardless of when they
2 took place. The registry shall be available for those persons
3 choosing to enter information therein, but no one shall be
4 required to do so.

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

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

31

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

8 Section 28. Section 63.182, Florida Statutes, is
9 amended to read:

10 (Substantial rewording of section. See

11 s. 63.182, F.S., for present text.)

12 63.182 Statute of repose.--

13 (1) An action or proceeding of any kind to vacate, set
14 aside, or otherwise nullify a judgment of adoption or an
15 underlying judgment terminating parental rights on any ground,
16 including duress but excluding fraud, shall in no event be
17 filed more than 1 year after entry of the judgment terminating
18 parental rights.

19 (2) An action or proceeding of any kind to vacate, set
20 aside, or otherwise nullify a judgment of adoption or an
21 underlying judgment terminating parental rights on grounds of
22 fraud shall in no event be filed more than 2 years after entry
23 of the judgment terminating parental rights.

24 Section 29. Subsection (2) of section 63.202, Florida
25 Statutes, is amended to read:

26 63.202 Authority to license; adoption of rules.--

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

30 Section 30. Section 63.207, Florida Statutes, is
31 amended to read:

1 63.207 Out-of-state placement.--

2 (1) Unless the parent placing a minor for adoption
3 files an affidavit that the parent chooses to place the minor
4 outside the state, giving the reason for that placement, or
5 the minor child is to be placed with a relative within the
6 third degree or with a stepparent, or the minor is a special
7 needs child, as defined in s. 409.166, or for other good cause
8 shown, an adoption entity may not no person except an
9 intermediary, an agency, or the department shall:

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

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

30 (2) An adoption entity intermediary may not counsel a
31 birth mother to leave the state for the purpose of giving

1 birth to a child outside the state in order to secure a fee in
2 excess of that permitted under s. 63.097 when it is the
3 intention that the child is to be placed for adoption outside
4 the state.

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

8 Section 31. Section 63.212, Florida Statutes, is
9 amended to read:

10 63.212 Prohibited acts; penalties for violation;
11 preplanned adoption agreement.--

12 (1) It is unlawful for any person:

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

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

1 ~~employment is in another state only if the intermediary has a~~
2 ~~declaratory statement from the court establishing the fees to~~
3 ~~be paid. This requirement does not apply if the child is~~
4 ~~placed with a relative within the third degree or with a~~
5 ~~stepparent.~~

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

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

31

1 (d)~~(e)~~ Having the rights and duties of a parent with
2 respect to the care and custody of a minor to assign or
3 transfer such parental rights for the purpose of, incidental
4 to, or otherwise connected with, selling or offering to sell
5 such rights and duties.

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

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

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

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

1 agreement as specified below, but the payment of such expenses
2 may not be conditioned upon the transfer of parental rights.
3 Each petition for adoption which is filed in connection with a
4 preplanned adoption agreement must clearly identify the
5 adoption as a preplanned adoption arrangement and must include
6 a copy of the preplanned adoption agreement for review by the
7 court.

8 1. Individuals may enter into a preplanned adoption
9 arrangement as specified herein, but such arrangement shall
10 not in any way:

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

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

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

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

31

1 b. That the volunteer mother agrees to submit to
2 reasonable medical evaluation and treatment and to adhere to
3 reasonable medical instructions about her prenatal health.

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

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

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

26 f. That the intended father and intended mother may
27 agree to pay all reasonable legal, medical, psychological, or
28 psychiatric expenses of the volunteer mother related to the
29 preplanned adoption arrangement, and may agree to pay the
30 reasonable living expenses of the volunteer mother. No other
31

1 compensation, whether in cash or in kind, shall be made
2 pursuant to a preplanned adoption arrangement.

3 g. That the intended father and intended mother agree
4 to accept custody of and to assert full parental rights and
5 responsibilities for the child immediately upon the child's
6 birth, regardless of any impairment to the child.

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

11 i. That the agreement may be terminated at any time by
12 any of the parties.

13 3. A preplanned adoption agreement shall not contain
14 any provision:

15 a. To reduce any amount paid to the volunteer mother
16 if the child is stillborn or is born alive but impaired, or to
17 provide for the payment of a supplement or bonus for any
18 reason.

19 b. Requiring the termination of the volunteer mother's
20 pregnancy.

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

27 5. Payment to agents, finders, and intermediaries,
28 including attorneys and physicians, as a finder's fee for
29 finding volunteer mothers or matching a volunteer mother and
30 intended father and intended mother is prohibited. Doctors,
31 psychologists, attorneys, and other professionals may receive

1 reasonable compensation for their professional services, such
2 as providing medical services and procedures, legal advice in
3 structuring and negotiating a preplanned adoption agreement,
4 or counseling.

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

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

9 b. "Child" means the child or children conceived by
10 means of an insemination that is part of a preplanned adoption
11 arrangement.

12 c. "Fertility technique" means artificial
13 embryonation, artificial insemination, whether in vivo or in
14 vitro, egg donation, or embryo adoption.

15 d. "Intended father" means a male who, as evidenced by
16 a preplanned adoption agreement, intends to have the parental
17 rights and responsibilities for a child conceived through a
18 fertility technique, regardless of whether the child is
19 biologically related to the male.

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

25 f. "Parties" means the intended father and intended
26 mother, the volunteer mother and her husband, if she has a
27 husband, who are all parties to the preplanned adoption
28 agreement.

29 g. "Preplanned adoption agreement" means a written
30 agreement among the parties that specifies the intent of the
31 parties as to their rights and responsibilities in the

1 preplanned adoption arrangement, consistent with the
2 provisions of this act.

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

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

20 (2)(a) It is unlawful for any person under this
21 chapter to:

22 1. Knowingly provide false information;
23 2. Knowingly withhold material information; or
24 3. For a parent, with the intent to defraud, to accept
25 benefits related to the same pregnancy from more than one
26 adoption entity without disclosing that fact to each entity.

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

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

9 ~~(3)(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 ~~(4)(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 ~~(5)(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 ~~(6)(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 ~~(7)(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 ~~(8)(7)~~ Unless otherwise indicated, a person who
8 violates any provision of this section, excluding paragraph
9 (1)(g)(h), commits ~~is guilty of~~ a felony of the third degree,
10 punishable as provided in s. 775.082, s. 775.083, or s.
11 775.084. A person who violates paragraph (1)(g)(h) commits ~~is~~
12 ~~guilty of~~ a misdemeanor of the second degree, punishable as
13 provided in s. 775.083; and each day of continuing violation
14 shall be considered a separate offense.

15 Section 32. 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 33. 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 34. 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, or grandparents entitled to priority for adoption

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

6 Section 35. 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 36. 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 37. Section 63.072, Florida Statutes, is
2 repealed.
3 Section 38. 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 39. If any provision of this act or the
7 application thereof to any person or circumstance is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the act which can be given effect without the
10 invalid provision or application, and to this end the
11 provisions of this act are declared severable.
12 Section 40. This act shall take effect October 1,
13 1999.
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