

By Representatives Sanderson, Byrd, Sembler, Lacasa, Albright, Villalobos, Fuller, Starks, Bloom, Farkas, Maygarden, Sorensen, Barreiro, Hafner, Kyle, Kelly, Wallace and Hart

1 A bill to be entitled
2 An act relating to adoption; amending s.
3 63.022, F.S.; declaring additional legislative
4 intent; amending s. 63.032, F.S.; providing
5 definitions applicable to laws regulating
6 adoptions; renumbering and amending s. 63.207,
7 F.S., relating to out-of-state placement;
8 amending s. 63.042, F.S.; providing who may not
9 adopt; amending s. 63.052, F.S.; providing that
10 prospective adoptive parents become legal
11 custodians of a child pending finalization of
12 adoption; providing for removal of a child from
13 an unsuitable home; amending s. 63.062, F.S.;
14 prescribing certain obligations that must be
15 met by the father of a prospective adoptee in
16 order to preserve his right of consent in an
17 adoption; providing certain requirements with
18 respect to consent; creating s. 63.063, F.S.;
19 providing for notice of adoption proceedings;
20 creating s. 63.064, F.S.; providing for the
21 content of notice and service; creating s.
22 63.065, F.S.; providing termination of rights
23 hearing; creating s. 63.066, F.S.; providing
24 for the identity or location of a parent
25 unknown after filing of notice of adoption;
26 amending s. 63.072, F.S.; providing for waiver
27 of the requirement that the parent must consent
28 to the adoption of a child in certain
29 circumstances; amending s. 63.092, F.S.;
30 revising requirements of the preliminary home
31 study and for certain records checks; amending

1 s. 63.097, F.S.; requiring court approval of
2 certain fees of agencies; amending s. 63.102,
3 F.S.; providing for filing a petition for
4 adoption in the county in which an adoption
5 intermediary is located; amending s. 63.112,
6 F.S.; requiring certain information to be made
7 part of, or to accompany, an adoption petition;
8 amending s. 63.125, F.S.; changing the time for
9 filing the written report of a final home
10 investigation; amending s. 63.132, F.S.;
11 requiring agencies to file reports of
12 expenditures and receipts; amending s. 63.162,
13 F.S.; requiring intermediaries and agencies to
14 retain certain records and to provide notice
15 prior to closing of the location of said
16 records; amending s. 63.182, F.S.; revising
17 time period for appeal; amending s. 63.085,
18 F.S.; correcting a cross reference; amending s.
19 63.212, F.S.; prohibiting persons from
20 providing false or misleading information about
21 themselves when providing information for
22 completion of an adoption placement;
23 prohibiting birth parents from contracting
24 with, or accepting benefits from, more than one
25 agency or intermediary; providing penalties;
26 revising fees which intermediaries may charge;
27 correcting cross references; creating s.
28 63.215, F.S.; providing for preplanned adoption
29 arrangements; amending ss. 39.01, 984.03, and
30 985.03, F.S.; correcting cross references;
31 providing an effective date.

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

2

3 Section 1. Section 63.022, Florida Statutes, is
4 amended to read:

5 63.022 Legislative intent.--

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

11 (2) It is the intent of the Legislature that, in all
12 matters coming before the court pursuant to this chapter, the
13 court shall only enter such orders as protect and promote the
14 best interest of the adoptee.

15 (3) It is the intent of the Legislature that closure
16 be achieved as quickly as possible in an adoptee's life by the
17 establishment of rights, interests, and obligations of all
18 parties and that uncertainty with regard to these rights,
19 interests, and duties be eliminated as soon as possible.

20 (4) It is the intent of the Legislature that planning
21 for the future of the adoptee be facilitated and that the
22 adoptee, as soon as possible, be given a permanent status.

23 (5) It is the intent of the Legislature to ensure the
24 integrity of adoption.

25 (6) It is the intent of the Legislature that notice of
26 a proposed adoption of an infant be made at the earliest
27 possible time and, specifically, before the birth of the child
28 when possible.

29 (7)(2) The basic safeguards intended to be provided by
30 this chapter ~~act~~ are that:

31

1 (a) The child is legally free for adoption and said
2 adoption is finalized by the court as expeditiously as
3 possible.

4 (b) The required persons consent to the adoption or
5 the parent-child relationship is terminated by judgment of the
6 court as expeditiously as possible.

7 (c) The required social studies are completed and the
8 court considers the reports of these studies prior to judgment
9 on adoption petitions.

10 (d) All placements of minors for adoption shall be ~~are~~
11 reported to the court ~~Department of Children and Family~~
12 ~~Services~~ through the filing of a Notice of Intent to Place.

13 (e) A sufficient period of time elapses during which
14 the child has lived within the proposed adoptive home under
15 the guidance of the department, or a licensed child-placing
16 agency, or a licensed professional pursuant to s. 61.20(2).

17 (f) All expenditures by intermediaries and agencies
18 placing, and persons independently adopting, a minor are
19 reported to the court and become a permanent record in the
20 file of the adoption proceedings.

21 (g) Social and medical information concerning the
22 child and the birth parents is furnished by the birth parent
23 when available and filed with the consent to the adoption when
24 a minor is placed for adoption ~~by an intermediary.~~

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

27 (i) At the time of the hearing the court is authorized
28 to order temporary substitute care for the minor if ~~when~~ it
29 determines that the prospective adoptive home is unsuitable
30 pending formalization of the adoption ~~minor is in an~~
31 ~~unsuitable home.~~

1 (j) The records of all proceedings concerning custody
2 and adoption of children are confidential and exempt from the
3 provisions of s. 119.07(1), except as provided in s. 63.162.

4 (k) Each birth parent, each adoptive parent ~~The birth~~
5 ~~parent, the adoptive parent,~~ and the child receive the same or
6 similar safeguards, guidance, counseling, and supervision in
7 all adoptive situations ~~an intermediary adoption as they~~
8 ~~receive in an agency or department adoption.~~

9 (l) In all matters coming before the court pursuant to
10 this act, the court shall enter such orders as it deems
11 necessary and suitable to promote and protect the best
12 interests of the person to be adopted. All matters handled
13 pursuant to this chapter shall be handled as expeditiously as
14 possible.

15 (m) Only Florida licensed agencies, intermediaries,
16 and the Department of Children and Family Services advertise
17 adoption services in the State of Florida ~~In dependency cases~~
18 ~~initiated by the department, where termination of parental~~
19 ~~rights occurs, and siblings are separated despite diligent~~
20 ~~efforts of the department, continuing postadoption~~
21 ~~communication or contact among the siblings may be ordered by~~
22 ~~the court if found to be in the best interests of the~~
23 ~~children.~~

24 Section 2. Section 63.032, Florida Statutes, is
25 amended to read:

26 (Substantial rewording of section. See
27 s. 63.032, F.S., for present text.)

28 63.032 Definitions.--For the purposes of this chapter,
29 the term:

30 (1) "Abandoned" means a situation in which the parent
31 or legal custodian of a child, while being able, makes no

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

13 (2) "Adoption" means the act of creating the legal
14 relationship between parent and child where it did not exist,
15 thereby declaring the child to be legally the child of an
16 adoptive parent and his or her heir at law and entitled to all
17 the rights and privileges and subject to all the obligations
18 born to such adoptive parents.

19 (3) "Adult" means a person who is not a minor.

20 (4) "Agency" means any child-placing agency licensed
21 by the department pursuant to s. 63.202 to place minors for
22 adoption or a child-caring agency registered under s. 409.176.

23 (5) "Best interest of the person to be adopted" means
24 that the adoption will protect and promote the health, safety,
25 physical, and psychological well-being of the prospective
26 adoptee. This consideration shall not include a comparison
27 between the attributes of the parents and those of any persons
28 providing a present or potential placement for the child. For
29 the purpose of determining the manifest best interests of the
30 child, the court shall consider and evaluate all relevant
31 factors, including, but not limited to:

1 (a) The ability and disposition of the parent or
2 parents to provide the child with food, clothing, medical
3 care, or other remedial care recognized and permitted under
4 state law instead of medical care and other material needs of
5 the child.

6 (b) The capacity of the parent or parents to care for
7 the child to the extent that the child's health and well-being
8 will not be endangered upon the child's return home.

9 (c) The present mental and physical health needs of
10 the child and such future needs of the child to the extent
11 that such future needs can be ascertained based on the present
12 condition of the child.

13 (d) The love, affection, and other emotional ties
14 existing between the child and the child's parent or parents,
15 siblings, and other relatives, and the degree of harm to the
16 child that would arise from the termination of parental rights
17 and duties.

18 (e) The child's ability to form a significant
19 relationship with a parental substitute and the likelihood
20 that the child will enter into a more stable and permanent
21 family relationship as a result of permanent termination of
22 parental rights and duties.

23 (f) The length of time that the child has lived in a
24 stable, satisfactory environment and the desirability of
25 maintaining continuity.

26 (g) The depth of the relationship existing between the
27 child and the present custodian.

28 (h) The reasonable preferences and wishes of the
29 child, if the court deems the child to be of sufficient
30 intelligence, understanding, and experience to express a
31 preference.

1 (i) The recommendations for the child provided by the
2 child's guardian, attorney ad litem, or legal representative.

3 (6) "Child" means a son or daughter, whether by birth
4 or adoption.

5 (7) "Consent" means the voluntary surrender of
6 parental rights or the powers of a guardian for the purpose of
7 a minor adoption.

8 (8) "Court" means any circuit court of this state and,
9 when the context requires, the court of any state that is
10 empowered to grant petitions for adoption.

11 (9) "Department" means the Department of Children and
12 Family Services.

13 (10) "Intermediary" means an attorney or physician who
14 is licensed or authorized to practice in this state or, for
15 the purpose of adoptive placements of children from out of
16 state with citizens of this state, a child-placing agency
17 licensed in another state that is qualified by the department.

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

19 (12) "Person" includes a natural person, corporation,
20 government or governmental subdivision or agency, business
21 trust, estate, trust, partnership, or association, and any
22 other legal entity.

23 (13) "Suitability of the intended placement" includes
24 the fitness of the intended placement, with primary
25 consideration being given to the best interest of the child;
26 the fitness and capabilities of the adoptive parent or parents
27 to function as parent or parents for a particular child; and
28 the compatibility of the child with the home in which the
29 child is intended to be placed.

30 (14) "To place" or "placement" means the process of a
31 person placing the child for adoption, and the prospective

1 parents receiving and adopting the child, and includes all
2 actions by any person or agency participating in the process
3 in any manner whatsoever.

4 Section 3. Section 63.207, Florida Statutes, is
5 renumbered as section 63.0323, Florida Statutes, and amended
6 to read:

7 63.0323 ~~63.207~~ Out-of-state placement.--

8 (1) Unless the child is to be placed with a relative
9 within the third degree or with a stepparent, no person except
10 an intermediary, an agency, or the department shall+

11 ~~(a) take or send a child out of the state for the~~
12 ~~purpose of placement for adoption; or~~

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

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

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

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

7 Section 4. Section 63.042, Florida Statutes, is
8 amended to read:

9 63.042 Who may be adopted; who may adopt; who may not
10 adopt.--

11 (1) Any person, a minor or an adult, may be adopted.

12 (2) The following persons may adopt:

13 (a) A husband and wife jointly;

14 (b) An unmarried adult, including the birth parent of
15 the person to be adopted;

16 (c) The unmarried minor birth parent of the person to
17 be adopted; or

18 (d) A married person without the other spouse joining
19 as a petitioner, if the person to be adopted is not his or her
20 spouse, and if:

21 1. The other spouse is a parent of the person to be
22 adopted and consents to the adoption; or

23 2. The failure of the other spouse to join in the
24 petition or to consent to the adoption is excused by the court
25 for reason of prolonged unexplained absence, unavailability,
26 incapacity, or circumstances constituting an unreasonable
27 withholding of consent.

28 (3) No person eligible to adopt under this statute may
29 adopt if that person is a homosexual.

30 (4) No person eligible under this section shall be
31 prohibited from adopting solely because such person possesses

1 a physical disability or handicap, unless it is determined by
2 the department, ~~or~~ the licensed child-placing agency ~~or other~~
3 home study provider referred to in s. 61.20(2) providing the
4 home study, that such disability or handicap renders such
5 person incapable of serving as an effective parent.

6 (5) A person who may otherwise be eligible to adopt a
7 minor under this chapter may not adopt if that person is
8 terminally ill, unless the court finds by clear and convincing
9 evidence that it is not detrimental to the person to be
10 adopted to grant said adoption.

11 (6) No prospective adoptive parent may obtain custody
12 of a child under this chapter if that person has been
13 convicted of child abuse or a felony involving violence
14 against a person. No prospective adoptive parent may obtain
15 custody of a child under this chapter if that person has been
16 convicted of domestic abuse unless that person has received
17 counseling related to the domestic abuse by a licensed mental
18 health professional, a minimum 5-year period has passed since
19 such conviction, and the court finds that it is not
20 detrimental to the person to be adopted to grant said
21 adoption.

22 (7) No prospective adoptive parent may obtain custody
23 of a child under this chapter unless the court determines that
24 it is in the best interest of the child.

25 Section 5. Subsection (1) of section 63.052, Florida
26 Statutes, is amended to read:

27 63.052 Guardians designated; proof of commitment.--

28 (1) For minors who have been placed for adoption with
29 and permanently committed to an agency, the agency shall be
30 the guardian of the person of the child; for those who have
31 been placed for adoption with and permanently committed to the

1 department, the department shall be the guardian of the person
2 of the child. For minors who have been voluntarily
3 surrendered to an intermediary through an execution of consent
4 to adoption, the intermediary shall be responsible for the
5 child until the time a court orders preliminary approval of
6 placement of the child in the prospective adoptive home, at
7 which time the prospective adoptive parents become the legal
8 custodians ~~guardians~~ pending finalization of adoption. This
9 custody is subject to the continued suitability of the home.
10 The adoptee may be removed at any time and the adoption
11 dismissed before the finalization of adoption upon the order
12 of the court for good cause shown.

13 Section 6. Section 63.062, Florida Statutes, is
14 amended to read:

15 63.062 Persons required to consent to adoption.--

16 (1)(a) Unless consent is excused by the court, a
17 petition to adopt a minor may be granted only if written
18 consent has been executed after the birth of the minor by:

19 1.(a) The mother of the minor.

20 2.(b) The father of the minor, if:

21 a.1. The minor was conceived or born while the father
22 was married to the mother and is the biological father of the
23 child.

24 b.2. The minor is his child by adoption.

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

27 d.4. He has filed a petition to establish paternity
28 pursuant to chapter 742 prior to the filing of the petition
29 for adoption; or has responded to a notice of adoption
30 pursuant to s. 63.064; or he has acknowledged in writing,
31 signed in the presence of a competent witness, that he is the

1 father of the minor and has filed such acknowledgment with the
2 Office of Vital Statistics of the Department of Health prior
3 to the filing of the petition for adoption.

4 e.5. He has provided the minor, and the minor's mother
5 during pregnancy ~~child~~ with support in a repetitive, customary
6 manner, taking into consideration the needs of the mother and
7 the financial ability of the father.

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

11 (b) The consent shall contain language, indicating
12 that the parents have the following rights:

13 1. To consult with and obtain the advice of an
14 attorney;

15 2. To hold, care for, and feed the child absent other
16 legal bar or prohibition;

17 3. To place the child in foster care or family care
18 absent other legal bar or prohibition;

19 4. To take the child home absent other legal bar or
20 prohibition; and

21 5. To know what community resources are available
22 should they not go through with the adoption.

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

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

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

29 (3)(a) The petitioner or the agency or intermediary
30 acting on behalf of the petitioner must make good faith and
31 diligent efforts to notify, and obtain written consent from,

1 the persons required to consent to adoption within 30 ~~60~~ days
2 after filing the petition for adoption. These efforts must at
3 a minimum ~~may~~ include conducting interviews and record
4 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. If said good faith and
8 diligent efforts by the petitioner or the agency or
9 intermediary acting on behalf of the petitioner do not locate
10 additional parties whose consent to the adoption may be
11 required, and no additional parties come forward and
12 acknowledge paternity and gain standing to challenge the
13 adoption and service of process and notice pursuant to the
14 rules of civil procedure have been given, the court shall
15 terminate the unknown party's interest and allow the adoption
16 to proceed to finalization. If the party appears after the
17 finalization of the adoption, the adoption order shall remain
18 enforceable, provided that the notice was given and the rules
19 of civil procedure have been complied with.

20 (b) Efforts to notify identifiable but not locatable
21 individuals as described in paragraph (a) may include
22 conducting interviews and searching records to locate such
23 persons. An affidavit of diligent search and inquiry shall
24 provide that inquiry was made with reference to the following
25 records in order to identify the present whereabouts of such
26 persons:

- 27 1. Local telephone directory or directory assistance;
- 28 2. United States Post Office;
- 29 3. Department of Highway Safety and Motor Vehicles;
- 30 4. Utility companies;
- 31 5. Friends and family;

1 6. Law enforcement agencies, including any sheriff or
2 police departments, or other appropriate county or municipal
3 officer;

4 7. Public records, including those provided by the
5 clerk of circuit court and the tax collector;

6 8. Office of Vital Statistics;

7 9. Past employers, unions, and regulatory agencies;

8 10. Hospitals;

9 11. Military records; and

10 12. A background search performed by the department,
11 if the child was initially taken into custody by the
12 department.

13 (4) If parental rights to the minor have previously
14 been terminated, a licensed child-placing agency or the
15 department with which the child has been placed for subsequent
16 adoption may provide consent to the adoption. In such case,
17 no other consent is required.

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

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

21 (b) Written consent to adoption has been executed by
22 the birth parents, if any, or proof of service of process has
23 been filed, showing notice has been served on the parents as
24 provided in this section.

25 Section 7. Section 63.063, Florida Statutes, is
26 created to read:

27 63.063 Notice of adoption.--Notice shall be provided
28 to:

29 (1) Any person whose consent to the adoption is
30 required by this chapter who has not consented.

31

1 (2) The mother of the minor, unless her parental
2 rights have been terminated or she has executed a voluntary
3 consent which contains a written waiver of notice of the
4 adoption proceedings.

5 (3) Any man, who:

6 (a) Is or has been married to the mother of the minor
7 and the child was conceived or born during the marriage and he
8 is the biological father of the child or has filed a paternity
9 action pursuant to s. 742.091;

10 (b) Adopted the minor;

11 (c) Has been established by court proceeding to be the
12 father of the child; or

13 (d) Is or has been identified by scientific testing or
14 by the biological mother as the biological father and has
15 provided the minor and the minor's mother during pregnancy
16 with support in a repetitious, customary manner taking into
17 consideration the needs of the mother and child.

18 (4) Any party who is attempting to revoke a consent on
19 the ground that it was obtained by fraud or duress.

20 (5) Any individual who is named by the biological
21 mother as the biological father of the adoptee or who the
22 biological mother has reason to believe may be the biological
23 father of the adoptee and who is identified as such to the
24 adoption professional handling the adoption or who is named as
25 the father on the adoptee's birth certificate.

26 (6) Any grandparent entitled to priority for adoption
27 under s. 63.0425.

28 Section 8. Section 63.064, Florida Statutes, is
29 created to read:

30
31

1 63.064 Content of notice; service.--A notice required
2 by s. 63.063 shall be given as soon as possible to any
3 interested party:

4 (1) Before, if possible, or after the birth of the
5 child, by the agency or intermediary, or by the Department of
6 Children and Family Services the interested party shall be
7 notified that the birth mother is considering an adoptive
8 placement for the child.

9 (2) Consent of the biological father shall be implied
10 if:

11 (a) The biological father fails to provide support;

12 (b) The biological father fails to respond to the
13 notice of adoption; or

14 (c) The biological father fails to acknowledge
15 paternity pursuant to chapter 742.

16 (3) Notice of adoption must be given pursuant to the
17 rules of civil procedure. The notice shall be in
18 substantially the following form:

19
20 NOTICE OF ADOPTION

21 (Name of interested party) _____ is hereby notified that
22 an intent to adopt a child born to or expected to be born to
23 (name of biological mother) _____ on _____ (estimated date of
24 delivery) _____, has been filed in the office of the Clerk of
25 the Court of County _____ State _____ Date _____
26 Address _____
27 Telephone # _____
28 Case # _____

29 If you wish to contest this adoption, you must file a
30 written motion objecting to the adoption with the clerk of the
31 above-named court within 20 days of your receipt of this

1 notice. If you do not file a written motion to contest the
2 adoption after service of this notice, the above-named court
3 will hear and determine the Petition for Adoption and your
4 consent will be irrevocably implied and your parental rights
5 will be terminated by the court.

6
7 FAILURE TO RESPOND TO THIS NOTICE SHALL CONSTITUTE CONSENT TO
8 THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN)

9
10 _____
11 Petitioner's Attorney

12
13 _____
14 Petitioner's Attorney's Address and telephone number

15
16 (4) The notice as set forth in this section may be
17 waived in writing before or after the birth of the child by
18 any interested party.

19 (5) The notice under this section shall be served as
20 prescribed by the rules of civil procedure and service of
21 process must be made as specified by law or civil actions.

22 (6) If a person required to be served with notice as
23 prescribed in paragraph (5) cannot be served, notice of
24 adoption must be given as prescribed by the rules of civil
25 procedure, and service of process must be made as specified by
26 law or civil actions.

27 (7) The birth parents shall have an obligation to
28 provide to the intermediary or agency an address and, if
29 available, a telephone number where they can be reached and
30 shall have a continuing responsibility to provide a change of
31 address and telephone number within 10 days of the change to

1 the intermediary or agency, until a final judgment of adoption
2 is entered. Failure to provide an adequate address for service
3 is a defense to an objection to the adoption claiming notice
4 was not provided.

5 Section 9. Section 63.065, Florida Statutes, is
6 created to read:

7 63.065 Termination of rights hearing.--Before the
8 court may terminate parental rights, in addition to the other
9 requirements set forth in this part, the court shall conduct a
10 hearing to determine the rights of interested parties as soon
11 as possible.

12 (1) Notice of the date, time, and place of the hearing
13 must be sent to anyone responding to the notice of adoption in
14 s. 63.064.

15 (2) The time set for this hearing shall be after the
16 birth of the child.

17
18 The document containing the notice to respond or appear must
19 contain, in type at least as large as the balance of the
20 document, the following or substantially similar language:

21 "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS
22 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
23 RIGHTS OF THIS CHILD (OR THESE CHILDREN)."

24 (3) Notice as prescribed by this section may be
25 waived, in the discretion of the judge, with regard to any
26 person to whom notice must be given under this subsection if
27 the person executes, before two witnesses and a notary public
28 or other officer authorized to take acknowledgments, a written
29 consent to the adoption of the child to an intermediary,
30 licensed child-placing agency, or the department.

31

1 (4) If the person served with notice under this
2 section fails to respond to the notice of adoption or appear
3 at the hearing, the failure to respond or appear shall
4 constitute consent for termination of parental rights by the
5 person given notice.

6 Section 10. Section 63.066, Florida Statutes, is
7 created to read:

8 63.066 Identity or location of parent unknown after
9 filing of notice of adoption.--

10 (1) If the identity or location of a parent is unknown
11 and a notice of adoption is filed, the court shall conduct the
12 following inquiry:

13 (a) Whether the mother of the child was married at the
14 probable time of conception of the child or at the time of
15 birth of the child.

16 (b) Whether the mother was cohabiting with a male at
17 the probable time of conception of the child.

18 (c) Whether the mother has received payments or
19 promises of support with respect to the child or because of
20 her pregnancy from a man who claims to be the father.

21 (d) Whether the mother has named any man as the father
22 on the birth certificate of the child or in connection with
23 applying for or receiving public assistance.

24 (e) Whether any man has acknowledged or claimed
25 paternity of the child in a jurisdiction in which the mother
26 resided at the time of or since conception of the child, or in
27 which the child has resided or resides.

28 (2) The information required in subsection (1) may be
29 supplied to the court in the form of a sworn affidavit by a
30 person having personal knowledge of the facts.

31

1 (3) If the inquiry under subsection (1) identifies any
2 person as a parent or prospective parent, the court shall
3 require notice of the hearing to be provided to that person.

4 (4) If the inquiry under subsection (1) fails to
5 identify any person as a parent or prospective parent, the
6 court shall so find and may proceed without further notice.

7 (5) If the inquiry under subsection (1) identifies a
8 parent or prospective parent, and that person's location is
9 unknown, the court shall direct a diligent search be performed
10 for that person before scheduling a hearing to terminate
11 rights.

12 Section 11. Section 63.072, Florida Statutes, is
13 amended to read:

14 63.072 Persons whose consent to an adoption may be
15 waived.--The court may excuse the consent of the following
16 individuals to an adoption:

17 (1) A parent who has deserted a child without
18 affording means of identification or who has abandoned a child
19 and has not complied with s. 63.064.†

20 (2) A parent who has failed to acknowledge paternity
21 pursuant to chapter 742 after the notice of adoption is served
22 upon him, so long as the notice provisions of s. 63.063 have
23 been met.

24 (3) A parent who has not provided the minor and the
25 minor's mother during pregnancy with support in a repetitive,
26 customary manner. The court may consider the lack of
27 emotional and financial support in making this determination.

28 (4) A parent that the court determines to be unfit to
29 take custody of a child. A history of domestic violence or
30 child abuse shall be a rebuttable presumption of unfitness.

31

1 ~~(5)(2)~~ A parent whose parental rights have been
2 terminated by order of a court of competent jurisdiction.†

3 (6) A parent who is incarcerated in a state or federal
4 correctional institution and either:

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

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

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

30 ~~(7)(3)~~ A parent judicially declared incompetent for
31 whom restoration of competency is medically improbable.†

1 ~~(8)(4)~~ A legal guardian or lawful custodian of the
2 person to be adopted, other than a parent, who has failed to
3 respond in writing to a request for consent for a period of 30
4 ~~60~~ days or who, after examination of his or her written
5 reasons for withholding consent, is found by the court to be
6 withholding his or her consent unreasonably. ~~†~~ ~~or~~

7 ~~(9)(5)~~ The spouse of the person to be adopted, if the
8 failure of the spouse to consent to the adoption is excused by
9 reason of prolonged, unexplained absence, unavailability,
10 incapacity, or circumstances that are found by the court to
11 constitute unreasonable withholding of consent.

12 Section 12. Section 63.092, Florida Statutes, is
13 amended to read:

14 63.092 Report to the court of intended placement by an
15 intermediary; preliminary study.--

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

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

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

- 20 (a) An interview with the intended adoptive parents;
- 21 (b) Records checks of the department's central abuse
22 registry and national, state, and local criminal, and incident
23 reports, abuse records ~~correspondence checks pursuant to s.~~
24 ~~435.045 through the Department of Law Enforcement~~ on the
25 intended adoptive parents. If adoptive parents have not
26 resided in this state for a period of 1 year prior to the
27 filing of the petition for adoption, and are now residents of
28 Florida, a background check is to be performed in the state of
29 their last residence;
- 30 (c) An assessment of the physical environment of the
31 home;

1 (d) An assessment of the physical health of the
2 adoptive applicants including, but not limited to, human
3 immunodeficiency virus testing;

4 ~~(e)(d)~~ A determination of the financial security of
5 the intended adoptive parents;

6 ~~(f)(e)~~ Documentation of counseling and education of
7 the intended adoptive parents on adoptive parenting;

8 ~~(g)(f)~~ Documentation that information on adoption and
9 the adoption process has been provided to the intended
10 adoptive parents;

11 ~~(h)(g)~~ Documentation that information on support
12 services available in the community has been provided to the
13 intended adoptive parents;

14 ~~(i)(h)~~ A copy of the signed statement required by s.
15 63.085; ~~and~~

16 ~~(j)(i)~~ A copy of the written acknowledgment required
17 by s. 63.085(1);

18 (k) An interview conducted by a professional as
19 indicated in s. 61.10(2) with the biological parents, when
20 possible, and documentation of that interview. The interview
21 may be conducted by a professional other than the particular
22 professional conducting the preliminary home study. A
23 biological parent's refusal to be interviewed shall not impede
24 the adoption; and

25 (l) A statement signed by the mother and father when
26 possible that they understand the finality of their consent to
27 the adoption and that the consent is given freely and
28 voluntarily and without coercion or duress from any person.

29
30 If the preliminary home study is favorable, a minor may be
31 placed in the home pending entry of the judgment of adoption.

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

12 Section 13. Subsection (1) of section 63.097, Florida
13 Statutes, is amended to read:

14 63.097 Fees.--

15 (1) APPROVAL OF FEES TO AGENCIES OR
16 INTERMEDIARIES.--Any fee over \$2,000~~\$1,000~~ and those costs as
17 set out in s. 63.212(1)(d) over \$3,000~~\$2,500~~, paid to an
18 agency or intermediary other than actual, documented medical
19 costs, court costs, and hospital costs must be approved by the
20 court prior to assessment of the fee by the agency or
21 intermediary and upon a showing of justification for the
22 larger fee.

23 Section 14. Subsection (2) of section 63.102, Florida
24 Statutes, is amended to read:

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

27 (2) A petition for adoption or for a declaratory
28 statement as to the adoption contract shall be filed in the
29 county where the petitioner or petitioners or the child
30 resides or where the agency or intermediary through ~~in~~ which
31 the child has been or will be placed principally conducts its

1 business. A petition for adoption shall be filed within 30
2 days after placement is located.

3 Section 15. Subsections (1) and (2) of section 63.112,
4 Florida Statutes, are amended to read:

5 63.112 Petition for adoption; description; report or
6 recommendation, exceptions; mailing.--

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

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

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

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

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

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

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

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

26 (h) The name and address, if known, of any person
27 whose consent to the adoption is required, but who has not
28 consented, and facts or circumstances that excuse the lack of
29 consent; ~~and~~

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

1 (j) If the child was born out of the state or the
2 adoptive couple resides outside the state, that the adoption
3 will be in compliance with s. 409.401.

4 (2) The following documents are required to be filed
5 with the clerk of the court at or prior to the time the
6 petition is filed:

7 (a) Any ~~The~~ required consents or disclaimer of
8 parental rights that have been executed, unless consent is
9 excused by the court.

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

14 (c) An affidavit from the birth parent stating that
15 the federal Indian Child Welfare Act, 25 U.S.C. ss. 1901 et
16 seq., is not applicable to the adoption and whether the child
17 qualifies as a Native American.

18 ~~(d)(c) The surrender document must include~~
19 Documentation that interviews were held with:

20 1. The birth mother, if parental rights have not been
21 terminated unless she refuses the interview, and the
22 department, child-placing agency, or professional pursuant to
23 s. 63.092 files an affidavit declaring, it was offered and
24 refused;

25 2. The birth father, if he can be located, if his
26 consent to the adoption is required and parental rights have
27 not been terminated; and

28 3. The child, if older than 12 years of age, unless
29 the court, in the best interest of the child, dispenses with
30 the child's consent under s. 63.062(1) (a)3~~(c)~~.

31

1 The court may waive the requirement for an interview with the
2 birth mother or birth father in the investigation for good
3 cause shown.

4 Section 16. Subsection (2) of section 63.125, Florida
5 Statutes, is amended to read:

6 63.125 Final home investigation.--

7 (2) The department, the licensed child-placing agency,
8 or the professional that performs the investigation must file
9 a written report of the investigation with the court and the
10 petitioner within 90 days after placement in the adoptive home
11 ~~the date the petition is filed~~.

12 Section 17. Subsection (1) of section 63.132, Florida
13 Statutes, is amended to read:

14 63.132 Report of expenditures and receipts.--

15 (1) At least 10 days before the hearing on the
16 petition for adoption, the petitioner and any intermediary or
17 agency must file two copies of an affidavit containing a full
18 accounting of all disbursements and receipts of anything of
19 value, including professional fees, made or agreed to be made
20 by or on behalf of the petitioner and any intermediary or
21 agency in connection with the adoption. The clerk of the
22 court shall forward a copy of the affidavit to the department.
23 The report must show any expenses or receipts incurred in
24 connection with:

25 (a) The birth of the minor.

26 (b) The placement of the minor with the petitioner.

27 (c) The medical or hospital care received by the
28 biological mother or by the minor during the mother's prenatal
29 care and confinement.

30
31

1 (d) The living expenses of the birth mother. The
2 living expenses must be documented in detail to apprise the
3 court of the exact expenses incurred.

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

8 Section 18. Subsections (2), (3), (4), (5), (6), and
9 (7) of section 63.162, Florida Statutes, are renumbered as
10 subsections (4), (5), (6), (7), (8), and (9), respectively,
11 and new subsections (2) and (3) are added to said section to
12 read:

13 63.162 Hearings and records in adoption proceedings;
14 confidential nature.--

15 (2) All intermediary and agency files, records, and
16 papers pertaining to the adoption of a minor shall be
17 permanently retained by the intermediary or agency.

18 (3) The intermediary or agency, prior to the closure
19 of its office or agency, shall notify the department, in
20 writing, at least 30 days prior to closing, as to the location
21 of said files, records, and papers.

22 Section 19. Section 63.182, Florida Statutes, is
23 amended to read:

24 63.182 Appeal and validation of judgment.--After 3
25 months ~~1 year~~ from the entry of a judgment of adoption, any
26 irregularity or procedural defect in the proceedings is cured,
27 and the validity of the judgment shall not be subject to
28 direct or collateral attack because of any irregularity or
29 procedural defect. Any defect or irregularity of, or objection
30 to, a consent that could have been cured had it been made
31

1 during the proceedings shall not be questioned after the time
2 for taking an appeal has expired.

3 Section 20. Paragraph (e) of subsection (1) of section
4 63.085, Florida Statutes, is amended to read:

5 63.085 Disclosure by intermediary.--

6 (1) An intermediary or agency placing a child for
7 adoption must disclose the following circumstances to persons
8 seeking to adopt a child being placed for adoption by the
9 intermediary:

10 (e) That, pursuant to s. 63.182, for a period of 3
11 months ~~1 year~~ from the entry of a judgment of adoption, any
12 irregularity or procedural defect in the adoption proceeding
13 may be the subject of an appeal contesting the validity of the
14 judgment.

15 Section 21. Section 63.212, Florida Statutes, is
16 amended to read:

17 63.212 Prohibited acts; penalties for violation.--

18 (1) It is unlawful for any person:

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

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

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

21 (c)~~(d)~~ To sell or surrender, or to arrange for the
22 sale or surrender of, a child to another person for money or
23 anything of value or to receive such minor child for such
24 payment or thing of value. If a child is being adopted by a
25 relative within the third degree or by a stepparent, or is
26 being adopted through the Department of Children and Family
27 Services, an agency, or an intermediary, nothing herein shall
28 be construed as prohibiting the person who is contemplating
29 adopting the child from paying the actual prenatal care and
30 living expenses of the mother of the child to be adopted, nor
31 from paying the actual living and medical expenses of such

1 mother for a reasonable time, not to exceed 6 weeks, if
2 medical needs require such support, after the birth of the
3 child.

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

9 (e)~~(f)~~ To assist in the commission of any act
10 prohibited in paragraph (a), paragraph (b), paragraph (c), or
11 paragraph (d), ~~or paragraph (e)~~.

12 (f)~~(g)~~ Except the Department of Children and Family
13 Services, an intermediary, or an agency, to charge or accept
14 any fee or compensation of any nature from anyone for making a
15 referral or participating in the identification of a birth
16 parent, prospective adoptive child, or adoptive parent in
17 connection with an adoption.

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

30
31

1 (h) To provide to any agency or intermediary
2 untruthful or misleading information when providing necessary
3 information for the completion of an adoptive placement.

4 (i) To contract as a birth parent with an agency or
5 intermediary or accept benefits from an agency or intermediary
6 and to contract with or simultaneously accept benefits from
7 another agency or intermediary without providing the first
8 agency or intermediary with written notice of intention to
9 withdraw from the contract or agreement to place.

10 ~~(j)~~~~(i)~~ To contract for the purchase, sale, or transfer
11 of custody or parental rights in connection with any child, or
12 in connection with any fetus yet unborn, or in connection with
13 any fetus identified in any way but not yet conceived, in
14 return for any valuable consideration. Any such contract is
15 void and unenforceable as against the public policy of this
16 state. However, fees, costs, and other incidental payments
17 made in accordance with statutory provisions for adoption,
18 foster care, and child welfare are permitted, and a person may
19 agree to pay expenses in connection with a preplanned adoption
20 agreement as specified in s. 63.215 below, but the payment of
21 such expenses may not be conditioned upon the transfer of
22 parental rights. Each petition for adoption which is filed in
23 connection with a preplanned adoption agreement must clearly
24 identify the adoption as a preplanned adoption arrangement and
25 must include a copy of the preplanned adoption agreement for
26 review by the court.

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

30 a. Effect final transfer of custody of a child or
31 final adoption of a child, without review and approval of the

1 department and the court, and without compliance with other
2 applicable provisions of law.

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

9 2. A preplanned adoption arrangement shall be based
10 upon a preplanned adoption agreement which shall include, but
11 need not be limited to, the following terms:

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

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

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

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

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

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

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

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

28 i. That the agreement may be terminated at any time by
29 any of the parties.

30 3. A preplanned adoption agreement shall not contain
31 any provision:

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

5 b. Requiring the termination of the volunteer mother's
6 pregnancy.

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

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

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

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

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

29 c. "Fertility technique" means artificial
30 embryonation, artificial insemination, whether in vivo or in
31 vitro, egg donation, or embryo adoption.

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

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

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

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

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

31

1 i. "Volunteer mother" means a female person at least
2 18 years of age who voluntarily agrees, subject to a right of
3 rescission, that if she should become pregnant pursuant to a
4 preplanned adoption arrangement, she will terminate in favor
5 of the intended father and intended mother her parental rights
6 and responsibilities to the child.

7 (2) Nothing herein shall be construed to prohibit a
8 licensed child-placing agency from charging fees reasonably
9 commensurate to the services provided.

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

16 (4) It is unlawful for any intermediary or agency to
17 charge any fee over ~~\$2,000~~\$1,000 and those costs as set out
18 in paragraph (1)(d) over ~~\$3,000~~\$2,500, other than for actual
19 documented medical costs, court costs, and hospital costs
20 unless such fee is approved by the court prior to the
21 assessment of the fee by the intermediary or agency and upon a
22 showing of justification for the larger fee.

23 (5) It is unlawful for any intermediary or agency to
24 counsel a birth mother to leave the state for the purpose of
25 giving birth to a child outside the state in order to secure a
26 fee in excess of that permitted under s. 63.097 when it is the
27 intention that the child be placed for adoption outside the
28 state.

29 (6) It is unlawful for any intermediary or agency to
30 obtain a preliminary home study or final home investigation
31 and fail to disclose the existence of the study to the court.

1 (7) A person who violates any provision of this
2 section, excluding paragraph (1)(h), is guilty of a felony of
3 the third degree, punishable as provided in s. 775.082, s.
4 775.083, or s. 775.084. A person who violates paragraph
5 (1)(h) is guilty of a misdemeanor of the second degree,
6 punishable as provided in s. 775.083; and each day of
7 continuing violation shall be considered a separate offense.

8 Section 22. Section 63.215, Florida Statutes, is
9 created to read:

10 63.215 Preplanned adoption arrangements.--

11 (1) Individuals may enter into a preplanned adoption
12 arrangement as specified in this section but such arrangement
13 shall not in any way:

14 (a) Effect final transfer of custody of a child or
15 final adoption of a child, without review and approval of the
16 department and the court, and without compliance with other
17 applicable provisions of law.

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

24 (2) A preplanned adoption arrangement shall be based
25 upon a preplanned adoption agreement which shall include, but
26 need not be limited to, the following terms:

27 (a) That the volunteer mother agrees to become
28 pregnant by the fertility technique specified in the
29 agreement, to bear the child, and to terminate any parental
30 rights and responsibilities to the child she might have
31 through a written consent executed at the same time as the

1 preplanned adoption agreement, subject to a right of
2 rescission by the volunteer mother any time within 7 days
3 after the birth of the child.

4 (b) That the volunteer mother agrees to submit to
5 reasonable medical evaluation and treatment and to adhere to
6 reasonable medical instructions about her prenatal health.

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

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

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

29 (f) That the intended father and intended mother may
30 agree to pay all reasonable legal, medical, psychological, or
31 psychiatric expenses of the volunteer mother related to the

1 preplanned adoption arrangement, and may agree to pay the
2 reasonable living expenses of the volunteer mother. No other
3 compensation, whether in cash or in kind, shall be made
4 pursuant to a preplanned adoption arrangement.

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

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

13 (i) That the agreement may be terminated at any time
14 by any of the parties.

15 (3) A preplanned adoption agreement shall not contain
16 any provision:

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

21 (b) Requiring the termination of the volunteer
22 mother's pregnancy.

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

29 (5) Payment to agents, finders, and intermediaries,
30 including attorneys and physicians, as a finder's fee for
31 finding volunteer mothers or matching a volunteer mother and

1 intended father and intended mother is prohibited. Doctors,
2 psychologists, attorneys, and other professionals may receive
3 reasonable compensation for their professional services, such
4 as providing medical services and procedures, legal advice in
5 structuring and negotiating a preplanned adoption agreement,
6 or counseling.

7 (6) As used in this section the term:

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

11 (b) "Child" means the child or children conceived by
12 means of an insemination that is part of a preplanned adoption
13 arrangement.

14 (c) "Fertility technique" means artificial
15 embryonation, artificial insemination, whether in vivo or in
16 vitro, egg donation, or embryo adoption.

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

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

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

31

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

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

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

23 Section 23. Subsection (50) of section 39.01, Florida
24 Statutes, is amended to read:

25 39.01 Definitions.--When used in this chapter, unless
26 the context otherwise requires:

27 (50) "Parent" means a woman who gives birth to a child
28 and a man whose consent to the adoption of the child would be
29 required under s. 63.062(1)(a)2. If a child has been legally
30 adopted, the term "parent" means the adoptive mother or father
31 of the child. The term does not include an individual whose

1 parental relationship to the child has been legally
2 terminated, or an alleged or prospective parent, unless the
3 parental status falls within the terms of s. 39.503(1) or s.
4 63.062(1)(a)2. For purposes of this chapter only, when the
5 phrase "parent or legal custodian" is used, it refers to
6 rights or responsibilities of the parent and, only if there is
7 no living parent with intact parental rights, to the rights or
8 responsibilities of the legal custodian who has assumed the
9 role of the parent.

10 Section 24. Subsection (41) of section 984.03, Florida
11 Statutes, is amended to read:

12 984.03 Definitions.--When used in this chapter, the
13 term:

14 (41) "Parent" means a woman who gives birth to a child
15 and a man whose consent to the adoption of the child would be
16 required under s. 63.062(1)(a)2(~~b~~). If a child has been
17 legally adopted, the term "parent" means the adoptive mother
18 or father of the child. The term does not include an
19 individual whose parental relationship to the child has been
20 legally terminated, or an alleged or prospective parent,
21 unless the parental status falls within the terms of either s.
22 39.503 or s. 63.062(1)(a)2(~~b~~).

23 Section 25. Subsection (43) of section 985.03, Florida
24 Statutes, is amended to read:

25 985.03 Definitions.--When used in this chapter, the
26 term:

27 (43) "Parent" means a woman who gives birth to a child
28 and a man whose consent to the adoption of the child would be
29 required under s. 63.062(1)(a)2(~~b~~). If a child has been
30 legally adopted, the term "parent" means the adoptive mother
31 or father of the child. The term does not include an

1 individual whose parental relationship to the child has been
2 legally terminated, or an alleged or prospective parent,
3 unless the parental status falls within the terms of either s.
4 39.503 or s. 63.062(1)(a)2~~(b)~~.

5 Section 26. This act shall take effect July 1, 2000.

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

HOUSE SUMMARY

Allows the removal of a prospective adoptee from the adoptive home, before the adoption is final, if the home is found to be unsuitable. Requires that an interview with the birth parents, and documentation of that interview, be made part of the preliminary home study conducted before a minor is placed in a prospective adoptive home. Authorizes the filing of a petition for an adoption in the county in which an adoption intermediary is located. Requires that a petition for adoption contain a statement that the adoption will comply with the Interstate Compact on the Placement of Children, if the child was born, or the adoptive couple resides, out of state. Requires that the petition be accompanied by an affidavit from the birth parents regarding whether certain federal law is applicable and whether the child qualifies as a Native American. Revises time period for appeal. Prohibits a person from providing false or misleading information about himself when providing information for the completion of an adoptive placement. Prohibits a birth parent from contracting with, or accepting benefits from, more than one intermediary. Provides for preplanned adoption arrangements. See bill for details.