

By Senator Silver

38-1739-00

See HB

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

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

1 985.03, F.S.; conforming cross-references;
2 providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 63.022, Florida Statutes, is
7 amended to read:

8 63.022 Legislative intent.--

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

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

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

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

26 (5) It is the intent of the Legislature to ensure the
27 integrity of adoption.

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

1 ~~(7)(2)~~ The basic safeguards intended to be provided by
2 this chapter act are that:

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

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

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

12 (d) All placements of minors for adoption shall be ~~are~~
13 reported to the court ~~Department of Children and Family~~
14 ~~Services~~ through the filing of an intent to place notice.

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

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

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

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

29 (i) At the time of the hearing the court is authorized
30 to order temporary substitute care for the minor if ~~when~~ it
31 determines that the prospective adoptive home is unsuitable

1 pending formalization of the adoption ~~minor is in an~~
2 ~~unsuitable home.~~

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

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

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

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

26 Section 2. Section 63.032, Florida Statutes, is
27 amended to read:

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

30 63.032 Definitions.--For the purposes of this chapter,
31 the term:

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

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

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

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

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

1 child, the court shall consider and evaluate all relevant
2 factors, including, but not limited to:

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

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

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

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

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

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

28 (g) The depth of the relationship existing between the
29 child and the present custodian.

30 (h) The reasonable preferences and wishes of the
31 child, if the court deems the child to be of sufficient

1 intelligence, understanding, and experience to express a
2 preference.

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

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

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

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

13 (9) "Department" means the Department of Children and
14 Family Services.

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

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

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

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

1 (14) "To place" or "placement" means the process of a
2 person placing the child for adoption, and the prospective
3 parents receiving and adopting the child, and includes all
4 actions by any person or agency participating in the process
5 in any manner whatsoever.

6 Section 3. Section 63.207, Florida Statutes, is
7 transferred, renumbered as section 63.0323, Florida Statutes,
8 and amended to read:

9 63.0323 ~~63.207~~ Out-of-state placement.--

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

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

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

1 (2) An agency or intermediary may not counsel a birth
2 mother to leave the state for the purpose of giving birth to a
3 child outside the state in order to secure a fee in excess of
4 that permitted under s. 63.097 when it is the intention that
5 the child is to be placed for adoption outside the state.

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

9 Section 4. Section 63.042, Florida Statutes, is
10 amended to read:

11 63.042 Who may be adopted; who may adopt; who may not
12 adopt.--

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

14 (2) The following persons may adopt:

15 (a) A husband and wife jointly;

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

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

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

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

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

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

1 (4) No person eligible under this section shall be
2 prohibited from adopting solely because such person possesses
3 a physical disability or handicap, unless it is determined by
4 the department, ~~or~~ the licensed child-placing agency or other
5 home study provider referred to in s. 61.20(2) providing the
6 home study, that such disability or handicap renders such
7 person incapable of serving as an effective parent.

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

13 (6) No prospective adoptive parent may obtain custody
14 of a child under this chapter if that person has been
15 convicted of child abuse or a felony involving violence
16 against a person. No prospective adoptive parent may obtain
17 custody of a child under this chapter if that person has been
18 convicted of domestic abuse unless that person has received
19 counseling related to the domestic abuse by a licensed mental
20 health professional and a minimum 5-year period has passed
21 since such conviction.

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.

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

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

10 (b) Consent shall contain language that the birth
11 parents have the right to consult with and obtain the advice
12 of an attorney, the right to hold, care for, and feed the
13 child pending other legal bar or prohibition; and the right to
14 place the child in foster care or family care pending other
15 legal bar or prohibition, and the right to take the child home
16 pending other legal bar or prohibition; and the right to know
17 what community resources are available should she not go
18 through with the adoption.

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

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

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

25 (3)(a) The petitioner or the agency or intermediary
26 acting on behalf of the petitioner must make good faith and
27 diligent efforts to notify, and obtain written consent from,
28 the persons required to consent to adoption within 30 ~~60~~ days
29 after filing the petition for adoption. These efforts must at
30 least ~~may~~ include conducting interviews and record searches to
31 locate those persons, including verifying information related

1 to location of residence, employment, service in the Armed
2 Forces, vehicle registration in this state, and corrections
3 records. If said good faith and diligent efforts by the
4 petitioner or the agency or intermediary acting on behalf of
5 the petitioner do not locate additional parties whose consent
6 to the adoption may be required, and no additional parties
7 come forward and acknowledge paternity and gain standing to
8 challenge the adoption and service of process and notice
9 pursuant to the rules of civil procedure have been given, the
10 court shall terminate the unknown party's interest and allow
11 the adoption to proceed to finalization. If the party appears
12 after the finalization of the adoption, the adoption order
13 shall remain enforceable, provided that the notice was given
14 and the rules of civil procedure have been complied with.

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

- 22 1. Local telephone directory or directory assistance;
- 23 2. United States Post Office;
- 24 3. Department of Highway Safety and Motor Vehicles;
- 25 4. Utility companies;
- 26 5. Friends and family;
- 27 6. Law enforcement agencies, including any sheriff or
28 police departments, or other appropriate county or municipal
29 officer;
- 30 7. Public records, including those provided by the
31 clerk of circuit court and the tax collector;

1 8. Office of Vital Statistics;
2 9. Past employers, unions, and regulatory agencies;
3 10. Hospitals;
4 11. Military records; and
5 12. A background search performed by the department,
6 if the child was initially taken into custody by the
7 department.

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

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

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

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

20 Section 7. Section 63.063, Florida Statutes, is
21 created to read:

22 63.063 Notice of adoption.--Notice shall be provided
23 to:

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

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

30 (3) Any man, who:
31

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

5 (b) Adopted the minor;

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

8 (d) Is or has been identified by scientific testing or
9 by the biological mother as the biological father and has
10 provided the minor and the minor's mother during pregnancy
11 with support in a repetitious, customary manner taking into
12 consideration the needs of the mother and child.

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

15 (5) Any individual who is named by the biological
16 mother as the biological father of the adoptee or who the
17 biological mother has reason to believe may be the biological
18 father of the adoptee and who is identified as such to the
19 adoption professional handling the adoption or who is named as
20 the father on the adoptee's birth certificate.

21 (6) Any grandparent entitled to priority for adoption
22 under s. 63.0425.

23 Section 8. Section 63.064, Florida Statutes, is
24 created to read:

25 63.064 Content of notice; service.--A notice required
26 by s. 63.063 shall be given as soon as possible to any
27 interested party:

28 (1) Before, if possible, or after the birth of the
29 child, by the agency or intermediary, or by the Department of
30 Children and Family Services the interested party shall be
31

1 notified that the birth mother is considering an adoptive
2 placement for the child.

3 (2) Consent of the biological father shall be implied
4 if:

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

6 (b) The biological father fails to respond to the
7 notice of adoption; or

8 (c) The biological father fails to acknowledge
9 paternity pursuant to chapter 742.

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

13
14 NOTICE OF ADOPTION

15 (Name of interested party) is hereby notified that
16 an intent to adopt a child born to or expected to be born to
17 (name of biological mother) on (estimated date of
18 delivery), has been filed in the office of the Clerk of
19 the Court of County State Date
20 Address
21 Telephone #
22 Case #

23 If you wish to contest this adoption, you must file a
24 written motion objecting to the adoption with the clerk of the
25 above-named court within 20 days of your receipt of this
26 notice. If you do not file a written motion to contest the
27 adoption after service of this notice, the above-named court
28 will hear and determine the Petition for Adoption and your
29 consent will be irrevocably implied and your parental rights
30 will be terminated by the court.

31

1 FAILURE TO RESPOND TO THIS NOTICE SHALL CONSTITUTE CONSENT TO
2 THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN)

3
4 _____
5 Petitioner's Attorney

6
7 _____
8 Petitioner's Attorney's Address

9
10 (4) The notice as set forth in this section may be
11 waived in writing before or after the birth of the child by
12 any interested party.

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

16 (6) If a person required to be served with notice as
17 prescribed in paragraph (5) cannot be served, notice of
18 adoption must be given as prescribed by the rules of civil
19 procedure, and service of process must be made as specified by
20 law or civil actions.

21 (7) The birth parents shall have an obligation to
22 provide to the intermediary or agency an address and, if
23 available, a telephone number and shall have a continuing
24 responsibility to provide a change of address and telephone
25 number within 10 days of the change to the intermediary or
26 agency, until a final judgment of adoption is entered. Failure
27 to provide an adequate address for service is a defense to an
28 objection to the adoption claiming notice was not provided.

29 Section 9. Section 63.065, Florida Statutes, is
30 created to read:

1 63.065 Termination of rights hearing.--Before the
2 court may terminate parental rights, in addition to the other
3 requirements set forth in this part, the court shall conduct a
4 hearing to determine the rights of interested parties as soon
5 as possible.

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

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

11
12 The document containing the notice to respond or appear must
13 contain, in type at least as large as the balance of the
14 document, the following or substantially similar language:

15 "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS
16 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
17 RIGHTS OF THIS CHILD (OR THESE CHILDREN)."

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

25 (4) If the person served with notice under this
26 section fails to respond to the notice of adoption or appear
27 at the hearing, the failure to respond or appear shall
28 constitute consent for termination of parental rights by the
29 person given notice.

30 Section 10. Section 63.066, Florida Statutes, is
31 created to read:

1 63.066 Identity or location of parent unknown after
2 filing of notice of adoption.--

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

6 (a) Whether the mother of the child was married at the
7 probable time of conception of the child or at the time of
8 birth of the child.

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

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

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

17 (e) Whether any man has acknowledged or claimed
18 paternity of the child in a jurisdiction in which the mother
19 resided at the time of or since conception of the child, or in
20 which the child has resided or resides.

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

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

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

30 (5) If the inquiry under subsection (1) identifies a
31 parent or prospective parent, and that person's location is

1 unknown, the court shall direct a diligent search be performed
2 for that person before scheduling a hearing to terminate
3 rights.

4 Section 11. Section 63.072, Florida Statutes, is
5 amended to read:

6 63.072 Persons whose consent to an adoption may be
7 waived.--The court may excuse the consent of the following
8 individuals to an adoption:

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

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

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

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

23 (5)~~(2)~~ A parent whose parental rights have been
24 terminated by order of a court of competent jurisdiction.†

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

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

31

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

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

22 (7)(3) A parent judicially declared incompetent for
23 whom restoration of competency is medically improbable.

24 (8)(4) A legal guardian or lawful custodian of the
25 person to be adopted, other than a parent, who has failed to
26 respond in writing to a request for consent for a period of 30
27 ~~60~~ days or who, after examination of his or her written
28 reasons for withholding consent, is found by the court to be
29 withholding his or her consent unreasonably.

30 (9)(5) The spouse of the person to be adopted, if the
31 failure of the spouse to consent to the adoption is excused by

1 reason of prolonged, unexplained absence, unavailability,
2 incapacity, or circumstances that are found by the court to
3 constitute unreasonable withholding of consent.

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

6 63.092 Report to the court of intended placement by an
7 intermediary; preliminary study.--

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

14 (2) PRELIMINARY HOME STUDY.--Before placing the minor
15 in the intended adoptive home, a preliminary home study must
16 be performed by a licensed child-placing agency, a licensed
17 professional, or agency described in s. 61.20(2), unless the
18 petitioner is a stepparent, a spouse of the birth parent, ~~or~~ a
19 biological relative, or relatives that would be biological
20 relatives, but for the fact that they were adopted. The
21 preliminary study shall be completed within 30 days after the
22 receipt by the court of the intermediary's report, but in no
23 event may the 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 biological relative, or
27 relatives that would be biological relatives, but for the fact
28 that they were adopted, the preliminary home study may be
29 required by the court for good cause shown. The department is
30 required to perform the preliminary home study only if there
31 is no licensed child-placing agency, licensed professional, or

1 agency described in s. 61.20(2), in the county where the
2 prospective adoptive parents reside. The preliminary home
3 study must be made to determine the suitability of the
4 intended adoptive parents and may be completed prior to
5 identification of a prospective adoptive child. A favorable
6 preliminary home study is valid for 1 year after the date of
7 its completion. A child must not be placed in an intended
8 adoptive home before a favorable preliminary home study is
9 completed unless the adoptive home is also a licensed foster
10 home under s. 409.175. The preliminary home study must
11 include, at a minimum:

12 (a) An interview with the intended adoptive parents;

13 (b) Records checks of the department's central abuse
14 registry and national, state, and local criminal, and incident
15 reports, abuse records ~~correspondence~~ checks pursuant to s.
16 ~~435.045~~ through the Department of Law Enforcement on the
17 intended adoptive parents. If adoptive parents have not
18 resided in this state for a period of 1 year, and are now
19 residents of Florida, a background check is to be performed in
20 the state of their last residence;

21 (c) An assessment of the physical environment of the
22 home;

23 (d) An assessment of the physical health of the
24 adoptive applicants including, but not limited to, human
25 immunodeficiency virus testing;

26 ~~(e)(d)~~ A determination of the financial security of
27 the intended adoptive parents;

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

30
31

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

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

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

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

11 (k) An interview conducted by a professional as
12 indicated in s. 61.10(2) with both the biological parents,
13 when possible, and documentation of that interview. The
14 interview may be conducted by a professional other than the
15 particular professional conducting the preliminary home study.
16 A biological parent's refusal to be interviewed shall not
17 impede the adoption; and

18 (l) A statement signed by the biological mother and
19 biological father when possible that they understand the
20 finality of their consent to adoption and that the said
21 consent is given freely and voluntarily and without coercion
22 or duress from any person.

23
24 If the preliminary home study is favorable, a minor may be
25 placed in the home pending entry of the judgment of adoption.
26 A minor may not be placed in the home if the preliminary home
27 study is unfavorable. If the preliminary home study is
28 unfavorable, the intermediary or petitioner may, within 20
29 days after receipt of a copy of the written recommendation,
30 petition the court to determine the suitability of the
31 intended adoptive home. A determination as to suitability

1 under this subsection does not act as a presumption of
2 suitability at the final hearing. In determining the
3 continued suitability of the intended adoptive home for
4 permanent placement, the court must consider the totality of
5 the circumstances in the home.

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

8 63.097 Fees.--

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

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

19 63.102 Filing of petition; venue; proceeding for
20 approval of fees and costs.--

21 (2) A petition for adoption or for a declaratory
22 statement as to the adoption contract shall be filed in the
23 county where the petitioner or petitioners or the child
24 resides or where the agency or intermediary through ~~in~~ which
25 the child has been placed principally conducts its business
26 within 30 days after placement ~~is located~~.

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

29 63.112 Petition for adoption; description; report or
30 recommendation, exceptions; mailing.--

31

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

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

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

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

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

12 (e) The marital status of the petitioner, including
13 the date and place of marriage, if married, and divorces, if
14 any;

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

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

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

24 (i) The reasons why the petitioner desires to adopt
25 the person; and

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

29 (2) The following documents are required to be filed
30 with the clerk of the court at the time the petition is filed:
31

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

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

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

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

14 1. The birth mother, if parental rights have not been
15 terminated unless she refuses the interview, and the
16 department, child-placing agency, or professional pursuant to
17 s. 63.092 files an affidavit declaring, it was offered and
18 refused;

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

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

25
26 The court may waive the requirement for an interview with the
27 birth mother or birth father in the investigation for good
28 cause shown.

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

31 63.125 Final home investigation.--

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

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

8 63.132 Report of expenditures and receipts.--

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

19 (a) The birth of the minor.

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

21 (c) The medical or hospital care received by the
22 biological mother or by the minor during the mother's prenatal
23 care and confinement.

24 (d) The living expenses of the birth mother. The
25 living expenses must be documented in detail to apprise the
26 court of the exact expenses incurred.

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

31

1 Section 18. Present subsections (2), (3), (4), (5),
2 (6), and (7) of section 63.162, Florida Statutes, are
3 renumbered as subsections (4), (5), (6), (7), (8), and (9),
4 respectively, and new subsections (2) and (3) are added to
5 that section to read:

6 63.162 Hearings and records in adoption proceedings;
7 confidential nature.--

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

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

15 Section 19. Section 63.182, Florida Statutes, is
16 amended to read:

17 63.182 Appeal and validation of judgment.--After 3
18 months ~~1 year~~ from the entry of a judgment of adoption, any
19 irregularity or procedural defect in the proceedings is cured,
20 and the validity of the judgment shall not be subject to
21 direct or collateral attack because of any irregularity or
22 procedural defect. Any defect or irregularity of, or objection
23 to, a consent that could have been cured had it been made
24 during the proceedings shall not be questioned after the time
25 for taking an appeal has expired.

26 Section 20. Paragraph (e) of subsection (1) of section
27 63.085, Florida Statutes, is amended to read:

28 63.085 Disclosure by intermediary.--

29 (1) An intermediary or agency placing a child for
30 adoption must disclose the following circumstances to persons
31

1 seeking to adopt a child being placed for adoption by the
2 intermediary:

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

8 Section 21. Section 63.212, Florida Statutes, is
9 amended to read:

10 63.212 Prohibited acts; penalties for violation.--

11 (1) It is unlawful for any person:

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

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

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

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

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

26 (e) Having the rights and duties of a parent with
27 respect to the care and custody of a minor to assign or
28 transfer such parental rights for the purpose of, incidental
29 to, or otherwise connected with, selling or offering to sell
30 such rights and duties.

31

1 (f) To assist in the commission of any act prohibited
2 in paragraph (a), paragraph (b), paragraph (c), paragraph (d),
3 or paragraph (e).

4 (g) Except the Department of Children and Family
5 Services, an intermediary, or an agency, to charge or accept
6 any fee or compensation of any nature from anyone for making a
7 referral or participating in the identification of a birth
8 parent, prospective adoptive child, or adoptive parent in
9 connection with an adoption.

10 (h) Except the Department of Children and Family
11 Services, an agency, or an intermediary, to advertise or offer
12 to the public, in any way, by any medium whatever that a child
13 is available for adoption or that a child is sought for
14 adoption; and further, it is unlawful for any person to
15 publish or broadcast any such advertisement without including
16 a Florida license number of the agency, attorney, or physician
17 placing the advertisement. The person or entity accepting the
18 advertisement for publication or broadcast has an affirmative
19 obligation to require the Florida license number and, if the
20 validity of that license is challenged, to require proof
21 thereof.

22 (i) To provide to any agency or intermediary
23 untruthful or misleading information when providing necessary
24 information for the completion of an adoptive placement.

25 (j) To contract as a birth parent with an agency or
26 intermediary or accept benefits from an agency or intermediary
27 and to contract with or simultaneously accept benefits from
28 another agency or intermediary without providing the first
29 agency or intermediary with written notice of intention to
30 withdraw from the contract to place.

31

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

18 1. Individuals may enter into a preplanned adoption
19 arrangement as specified herein, but such arrangement shall
20 not in any way:

21 a. Effect final transfer of custody of a child or
22 final adoption of a child, without review and approval of the
23 department and the court, and without compliance with other
24 applicable provisions of law.

25 b. Constitute consent of a mother to place her child
26 for adoption until 7 days following birth, and unless the
27 court making the custody determination or approving the
28 adoption determines that the mother was aware of her right to
29 rescind within the 7-day period following birth but chose not
30 to rescind such consent.

31

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

4 a. That the volunteer mother agrees to become pregnant
5 by the fertility technique specified in the agreement, to bear
6 the child, and to terminate any parental rights and
7 responsibilities to the child she might have through a written
8 consent executed at the same time as the preplanned adoption
9 agreement, subject to a right of rescission by the volunteer
10 mother any time within 7 days after the birth of the child.

11 b. That the volunteer mother agrees to submit to
12 reasonable medical evaluation and treatment and to adhere to
13 reasonable medical instructions about her prenatal health.

14 c. That the volunteer mother acknowledges that she is
15 aware that she will assume parental rights and
16 responsibilities for the child born to her as otherwise
17 provided by law for a mother, if the intended father and
18 intended mother terminate the agreement before final transfer
19 of custody is completed, or if a court determines that a
20 parent clearly specified by the preplanned adoption agreement
21 to be the biological parent is not the biological parent, or
22 if the preplanned adoption is not approved by the court
23 pursuant to the Florida Adoption Act.

24 d. That an intended father who is also the biological
25 father acknowledges that he is aware that he will assume
26 parental rights and responsibilities for the child as
27 otherwise provided by law for a father, if the agreement is
28 terminated for any reason by any party before final transfer
29 of custody is completed or if the planned adoption is not
30 approved by the court pursuant to the Florida Adoption Act.

31

1 e. That the intended father and intended mother
2 acknowledge that they may not receive custody or the parental
3 rights under the agreement if the volunteer mother terminates
4 the agreement or if the volunteer mother rescinds her consent
5 to place her child for adoption within 7 days after birth.

6 f. That the intended father and intended mother may
7 agree to pay all reasonable legal, medical, psychological, or
8 psychiatric expenses of the volunteer mother related to the
9 preplanned adoption arrangement, and may agree to pay the
10 reasonable living expenses of the volunteer mother. No other
11 compensation, whether in cash or in kind, shall be made
12 pursuant to a preplanned adoption arrangement.

13 g. That the intended father and intended mother agree
14 to accept custody of and to assert full parental rights and
15 responsibilities for the child immediately upon the child's
16 birth, regardless of any impairment to the child.

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

21 i. That the agreement may be terminated at any time by
22 any of the parties.

23 3. A preplanned adoption agreement shall not contain
24 any provision:

25 a. To reduce any amount paid to the volunteer mother
26 if the child is stillborn or is born alive but impaired, or to
27 provide for the payment of a supplement or bonus for any
28 reason.

29 b. Requiring the termination of the volunteer mother's
30 pregnancy.

31

1 4. An attorney who represents an intended father and
2 intended mother or any other attorney with whom that attorney
3 is associated shall not represent simultaneously a female who
4 is or proposes to be a volunteer mother in any matter relating
5 to a preplanned adoption agreement or preplanned adoption
6 arrangement.

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

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

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

20 b. "Child" means the child or children conceived by
21 means of an insemination that is part of a preplanned adoption
22 arrangement.

23 c. "Fertility technique" means artificial
24 embryonation, artificial insemination, whether in vivo or in
25 vitro, egg donation, or embryo adoption.

26 d. "Intended father" means a male who, as evidenced by
27 a preplanned adoption agreement, intends to have the parental
28 rights and responsibilities for a child conceived through a
29 fertility technique, regardless of whether the child is
30 biologically related to the male.

31

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

6 f. "Parties" means the intended father and intended
7 mother, the volunteer mother and her husband, if she has a
8 husband, who are all parties to the preplanned adoption
9 agreement.

10 g. "Preplanned adoption agreement" means a written
11 agreement among the parties that specifies the intent of the
12 parties as to their rights and responsibilities in the
13 preplanned adoption arrangement, consistent with the
14 provisions of this act.

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

26 i. "Volunteer mother" means a female person at least
27 18 years of age who voluntarily agrees, subject to a right of
28 rescission, that if she should become pregnant pursuant to a
29 preplanned adoption arrangement, she will terminate in favor
30 of the intended father and intended mother her parental rights
31 and responsibilities to the child.

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

4 (3) It is unlawful for any intermediary or agency to
5 fail to report to the court, prior to placement, the intended
6 placement of a child for purposes of adoption with any person
7 not a stepparent or a relative within the third degree, if the
8 intermediary or agency participates in such intended
9 placement.

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

17 (5) It is unlawful for any intermediary or agency to
18 counsel a birth mother to leave the state for the purpose of
19 giving birth to a child outside the state in order to secure a
20 fee in excess of that permitted under s. 63.097 when it is the
21 intention that the child be placed for adoption outside the
22 state.

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

26 (7) A person who violates any provision of this
27 section, excluding paragraph (1)(h), is guilty of a felony of
28 the third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084. A person who violates paragraph
30 (1)(h) is guilty of a misdemeanor of the second degree,
31

1 punishable as provided in s. 775.083; and each day of
2 continuing violation shall be considered a separate offense.

3 Section 22. Section 63.215, Florida Statutes, is
4 created to read:

5 63.215 Preplanned adoption arrangements.--

6 (1) Individuals may enter into a preplanned adoption
7 arrangement as specified in this section but such arrangement
8 shall not in any way:

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

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

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

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

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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 under
13 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 under 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
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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
12 by 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
20 mother's 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 section 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
16 by a preplanned adoption agreement, intends to have the
17 parental rights and responsibilities with respect to a child
18 conceived through a fertility technique, regardless of whether
19 the child is 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 with respect to a child
23 conceived through a fertility technique, regardless of whether
24 the child 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 with respect
9 to the child if consent to adoption is not rescinded after
10 birth by the volunteer mother, and for the volunteer mother to
11 terminate, subject to a right of rescission, in favor of the
12 intended father and intended mother all her parental rights
13 and responsibilities with respect 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 with respect to the child.

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

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

24 (50) "Parent" means a woman who gives birth to a child
25 and a man whose consent to the adoption of the child would be
26 required under s. 63.062(1)(a)2. If a child has been legally
27 adopted, the term "parent" means the adoptive mother or father
28 of the child. The term does not include an individual whose
29 parental relationship to the child has been legally
30 terminated, or an alleged or prospective parent, unless the
31 parental status falls within the terms of s. 39.503(1) or s.

1 63.062(1)(a)2. For purposes of this chapter only, when the
2 phrase "parent or legal custodian" is used, it refers to
3 rights or responsibilities of the parent and, only if there is
4 no living parent with intact parental rights, to the rights or
5 responsibilities of the legal custodian who has assumed the
6 role of the parent.

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

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

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

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

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

24 (43) "Parent" means a woman who gives birth to a child
25 and a man whose consent to the adoption of the child would be
26 required under s. 63.062(1)(a)2~~(b)~~. If a child has been
27 legally adopted, the term "parent" means the adoptive mother
28 or father of the child. The term does not include an
29 individual whose parental relationship to the child has been
30 legally terminated, or an alleged or prospective parent,
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1 unless the parental status falls within the terms of either s.
2 39.503 or s. 63.062(1)(a)2**(b)**.

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

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LEGISLATIVE SUMMARY

7

8 Allows the removal of a prospective adoptee from the
9 adoptive home, before the adoption is final, if the home
10 is found to be unsuitable. Requires that an interview
11 with the birth parents, and documentation of that
12 interview, be made part of the preliminary home study
13 conducted before a minor is placed in a prospective
14 adoptive home. Authorizes the filing of a petition for an
15 adoption in the county in which an adoption intermediary
16 is located. Requires that a petition for adoption contain
17 a statement that the adoption will comply with the
18 Interstate Compact on the Placement of Children, if the
19 child was born, or the adoptive couple resides, out of
20 state. Requires that the petition be accompanied by an
21 affidavit from the birth parents regarding whether
22 certain federal law is applicable and whether the child
23 qualifies as a Native American. Revises time period for
24 appeal. Prohibits a person from providing false or
25 misleading information about himself when providing
26 information for the completion of an adoptive placement.
27 Prohibits a birth parent from contracting with, or
28 accepting benefits from, more than one intermediary.
29 Provides for preplanned adoption arrangements. (See bill
30 for details.)
31