

By Senator Campbell

33-155A-00

1 A bill to be entitled
2 An act relating to adoption; amending ss.
3 39.703, 39.802, 39.806, 39.811, F.S., relating
4 to the petition and grounds for terminating
5 parental rights and powers of disposition;
6 removing authority of licensed child-placing
7 agencies to file actions to terminate parental
8 rights; amending s. 39.812, F.S.; providing
9 additional requirements for a petition for
10 adoption; prohibiting filing such petition
11 until the order terminating parental rights is
12 final; amending s. 63.022, F.S.; revising
13 legislative intent with respect to adoptions;
14 amending s. 63.032, F.S.; revising definitions;
15 defining "adoption entity," "legal custody,"
16 "parent," and "relative"; creating s. 63.037,
17 F.S.; providing exemptions from certain
18 provisions of ch. 63, F.S., for adoption
19 proceedings initiated under ch. 39, F.S.;
20 creating s. 63.039, F.S.; providing duties of
21 an adoption entity to prospective adoptive
22 parents; providing sanctions and an award of
23 attorney's fees under certain circumstances;
24 amending s. 63.0425, F.S.; conforming
25 provisions relating to grandparent's right to
26 adopt; amending s. 63.052, F.S.; providing for
27 placement of a minor pending adoption;
28 specifying the jurisdiction of the court over a
29 minor placed for adoption; amending s. 63.062,
30 F.S.; specifying additional persons who must
31 consent to an adoption, execute an affidavit of

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

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

1 voidable; providing for an evidentiary hearing
2 to determine the minor's placement following a
3 motion to void such a judgment; amending s.
4 63.162, F.S.; conforming provisions relating to
5 confidential records of adoption proceedings;
6 amending s. 63.165, F.S.; requiring that the
7 Department of Children and Family Services
8 maintain certain information in the state
9 registry of adoption information for a
10 specified period; amending s. 63.182, F.S.;
11 providing a 1-year statute of repose for
12 actions to set aside or vacate a judgment of
13 adoption or a judgment terminating parental
14 rights pending adoption; providing a 2-year
15 statute of repose for an action in fraud to set
16 aside or vacate a judgment of adoption or a
17 judgment terminating parenting rights; amending
18 s. 63.202, F.S.; conforming provisions relating
19 to agencies authorized to place minors for
20 adoption; amending s. 63.207, F.S.; revising
21 provisions that limit the placement of a minor
22 in another state for adoption; amending s.
23 63.212, F.S.; revising provisions relating to
24 prohibitions and penalties with respect to
25 adoptions; amending s. 63.219, F.S.; conforming
26 provisions relating to sanctions; amending s.
27 63.301, F.S.; revising membership of an
28 advisory council on adoption to include a
29 child-caring agency registered under s.
30 409.176, F.S.; amending ss. 39.01, 984.03,
31 985.03, F.S.; conforming cross-references;

1 repealing s. 63.072, F.S., relating to persons
2 who may waive required consent to an adoption;
3 requiring that a petition for adoption be
4 governed by the law in effect at the time the
5 petition is filed; providing for severability;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 39.703, Florida Statutes, is
11 amended to read:

12 39.703 Initiation of termination of parental rights
13 proceedings; judicial review.--

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

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

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

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

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

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

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

15 39.806 Grounds for termination of parental rights.--

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

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

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

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

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

3 (b) When the identity or location of the parent or
4 parents is unknown and cannot be ascertained by diligent
5 search within 60 days.

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

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

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

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

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

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

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

29 (f) When the parent or parents engaged in egregious
30 conduct or had the opportunity and capability to prevent and
31 knowingly failed to prevent egregious conduct that threatens

1 the life, safety, or physical, mental, or emotional health of
2 the child or the child's sibling.

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

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

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

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

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

26 Section 4. Subsections (2) and (8) of section 39.811,
27 Florida Statutes, are amended to read:

28 39.811 Powers of disposition; order of disposition.--

29 (2) If the child is in the custody of the department
30 and the court finds that the grounds for termination of
31 parental rights have been established by clear and convincing

1 evidence, the court shall, by order, place the child in the
2 custody of the department ~~or a licensed child-placing agency~~
3 for the purpose of adoption.

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

18 Section 5. Section 39.812, Florida Statutes, is
19 amended to read:

20 39.812 Postdisposition relief; petition for
21 adoption.--

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

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

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

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

1 for good cause shown by the guardian ad litem for the child,
2 the court may review the appropriateness of the adoptive
3 placement of the child.

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

18 Section 6. Section 63.022, Florida Statutes, is
19 amended to read:

20 63.022 Legislative intent.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (4) The court must provide to The Florida Bar any
24 order that imposes sanctions under this section against an
25 attorney acting as an adoption agency or as an intermediary.
26 The court must provide to the Department of Children and
27 Family Services any order that imposes sanctions under this
28 section against an agency. The order must be provided within
29 30 days after the date that the order was issued.

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

1 63.0425 Grandparent's right to adopt.--

2 (1) When a child who has lived with a grandparent for
3 at least 6 months is placed for adoption, the adoption entity
4 ~~agency or intermediary~~ handling the adoption shall notify that
5 grandparent of the impending adoption before the petition for
6 adoption is filed. If the grandparent petitions the court to
7 adopt the child, the court shall give first priority for
8 adoption to that grandparent.

9 Section 11. Section 63.052, Florida Statutes, 1998
10 Supplement, is amended to read:

11 63.052 Guardians designated; proof of commitment.--

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

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

1 favorable preliminary home study by a licensed child-placing
2 agency, a licensed professional, or an agency, as provided in
3 s. 63.092, within 1 year before such placement in the
4 prospective home. Temporary placement in the prospective home
5 with the prospective adoptive parents does not give rise to a
6 presumption that the parental rights of the parents will
7 subsequently be terminated.

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

24 (3) If a minor is surrendered to an intermediary for
25 subsequent adoption and a suitable prospective adoptive home
26 is not available pursuant to s. 63.092 at the time the minor
27 is surrendered to the intermediary or, if the minor is a
28 newborn admitted to a licensed hospital or birth center, at
29 the time the minor is discharged from the hospital or birth
30 center, the minor must be placed in licensed foster care, ~~the~~
31

1 ~~intermediary shall be responsible for the child~~ until such a
2 suitable prospective adoptive home is available.

3 (4) If a minor child is voluntarily surrendered to an
4 adoption entity intermediary for subsequent adoption and the
5 adoption does not become final within 180 days, the adoption
6 entity intermediary must report to the court on the status of
7 the minor child and the court may at that time proceed under
8 s. 39.701 or take action reasonably necessary to protect the
9 best interest of the minor child.

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

20 (6) Unless otherwise authorized by law, the department
21 is not responsible for expenses incurred by other adoption
22 entities licensed child-placing agencies or intermediaries
23 participating in placement of a minor child for the purposes
24 of adoption.

25 (7) The court retains jurisdiction of a minor who has
26 been placed for adoption until the adoption is final. After a
27 minor is placed with an adoption entity or prospective
28 adoptive parent, the court may review the status of the minor
29 and the progress toward permanent adoptive placement. As part
30 of this continuing jurisdiction, for good cause shown by a
31 person whose consent to an adoption is required under s.

1 63.062, the adoption entity, the parents, persons having legal
2 custody of the minor, persons with custodial or visitation
3 rights to the minor, persons entitled to notice pursuant to
4 the Uniform Child Custody Jurisdiction Act or the Indian Child
5 Welfare Act, or upon the court's own motion, the court may
6 review the appropriateness of the adoptive placement of the
7 minor.

8 Section 12. Section 63.062, Florida Statutes, is
9 amended to read:

10 63.062 Persons required to consent to adoption;
11 affidavit of nonpaternity; waiver of venue.--

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

18 (a) The mother of the minor.

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

20 1. The minor was conceived or born while the father
21 was married to the mother;-

22 2. The minor is his child by adoption; or-

23 3. The minor has been established by court proceeding
24 to be his child.

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

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

1 ~~1.4. He~~ Has acknowledged in writing, signed in the
2 presence of a competent witness, that he is the father of the
3 minor and has filed such acknowledgment with the Office of
4 Vital Statistics of the Department of Health;~~;~~

5 ~~2.5. He~~ Has provided, or has attempted to provide, the
6 child or the mother during her pregnancy with support in a
7 repetitive, customary manner; ~~or~~.

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

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

15 ~~(f)(c)~~ The minor, if more than 12 years of age, unless
16 the court in the best interest of the minor dispenses with the
17 minor's consent.

18 (2) Any person whose consent is required under
19 paragraph (1)(c) or paragraph (1)(d) may execute an affidavit
20 of nonpaternity in lieu of a consent under this section and by
21 doing so waives notice to all court proceedings after the date
22 of execution. An affidavit of nonpaternity must be executed as
23 provided in s. 63.082. The person executing the affidavit must
24 receive disclosure under s. 63.085 prior to signing the
25 affidavit.

26 (3) A person who signs a consent to adoption or an
27 affidavit of nonpaternity must be given reasonable notice of
28 his or her right to select a person who does not have an
29 employment, professional, or personal relationship with the
30 adoption entity or the prospective adoptive parents to be
31 present when the consent to adoption or affidavit of

1 nonpaternity is executed and to sign the consent or affidavit
2 as a witness.

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

5
6 AFFIDAVIT OF NONPATERNITY
7

8 1. I have personal knowledge of the facts
9 stated in this affidavit.

10 2. I have been told that has a
11 child. I shall not establish or claim paternity
12 for this child, whose name is ... and whose
13 date of birth is

14 3. The child referenced in this affidavit
15 was not conceived or born while the birth
16 mother was married to me. I AM NOT MARRIED TO
17 THE BIRTH MOTHER, nor do I intend to marry the
18 birth mother.

19 4. With respect to the child referenced
20 in this affidavit, I have not provided the
21 birth mother with child support or prebirth
22 support; I have not provided her with prenatal
23 care or assisted her with medical expenses; I
24 have not provided the birth mother or her child
25 or unborn child with support of any kind, nor
26 do I intend to do so.

27 5. I have no interest in assuming the
28 responsibilities of parenthood for this child.
29 I will not acknowledge in writing that I am the
30 father of this child nor institute court
31 proceedings to establish the child as mine.

1 6. I do not object to any decision or
2 arrangements makes regarding this child,
3 including adoption.

4 7. I have been told of my right to choose
5 a person who does not have an employment,
6 professional, or personal relationship with the
7 adoption entity or the prospective adoptive
8 parents to be present when this affidavit is
9 executed and to sign it as a witness.

10
11 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
12 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
13 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.
14

15 ~~(5)(2)~~ The court may require that consent be executed
16 by:

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

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

22 ~~(6)(3)~~ The petitioner must make good faith and
23 diligent efforts as provided under s. 63.088 to notify, and
24 obtain written consent from, the persons required to consent
25 to adoption under this section ~~within 60 days after filing the~~
26 ~~petition. These efforts may include conducting interviews and~~
27 ~~record searches to locate those persons, including verifying~~
28 ~~information related to location of residence, employment,~~
29 ~~service in the Armed Forces, vehicle registration in this~~
30 ~~state, and corrections records.~~

31

1 ~~(7)(4)~~ If parental rights to the minor have previously
2 been terminated, a licensed child-placing agency, a
3 child-caring agency registered under s. 409.176, or the
4 department with which the minor child has been placed for
5 subsequent adoption may provide consent to the adoption. In
6 such case, no other consent is required.

7 ~~(8)(5)~~ A petition to adopt an adult may be granted if:

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

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

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

22
23 WAIVER OF VENUE

24
25
26 I understand that I have the right to require
27 that the Petition to terminate my parental
28 rights be filed in the county where I reside. I
29 waive such right so that the Petition to
30 Terminate Parental Rights may be filed by
31

1 ...(adoption entity)... in ...(county name)...
2 county, Florida.

3
4 I understand that, after signing this waiver, I
5 may object to the county where the proceedings
6 to terminate my parental rights will be held by
7 appearing at the hearing or by filing a written
8 objection, on the attached form, with the Clerk
9 of the Court who is located at ...(address of
10 court).... If I later object to this transfer
11 of venue, the case will be transferred to a
12 county in Florida in which I reside. If I have
13 no such residence, the case will be transferred
14 to a county where another parent resides or
15 where at least one parent resided at the time
16 of signing a consent or affidavit of
17 nonpaternity.

18
19 (b)1. The waiver of venue must be a separate document
20 containing no consents, disclosures, or other information
21 unrelated to venue.

22 2. Adoption entities must attach to the waiver of
23 venue a form that the parent whose rights are to be terminated
24 may use to request a transfer of venue for the proceeding.
25 This form must contain the intended caption of the action for
26 termination of parental rights and information identifying the
27 child which will be sufficient for the clerk to properly file
28 the form upon receipt.

29 3. This form must include a notice that if an adoption
30 entity knows that a parent whose rights will be terminated
31 intends to object to the termination but intentionally files

1 the petition for termination of parental rights in a county
2 which is not consistent with the required venue under such
3 circumstances, the adoption entity shall be responsible for
4 the attorney's fees of the parent contesting the transfer of
5 venue.

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

23 (d) The consent to adoption or the affidavit of
24 nonpaternity must be signed ~~child~~, in the presence of two
25 witnesses, and be acknowledged before a notary public who is
26 not signing as one of the witnesses. The notary public must
27 legibly note on the consent or the affidavit the date and time
28 of execution. The witnesses' names must be typed or printed
29 underneath their signatures. The witnesses', ~~and their~~ home or
30 business addresses and social security numbers, driver's
31 license numbers, or state identification card numbers must be

1 included. The absence of a social security number, driver's
2 license number, or state identification card number shall not
3 ~~be deemed to~~ invalidate the consent. The person who signs the
4 consent or the affidavit has the right to have at least one of
5 the witnesses be an individual who does not have an
6 employment, professional, or personal relationship with the
7 adoption entity or the prospective adoptive parents. The
8 adoption entity must give reasonable notice to the person
9 signing the consent or affidavit of the right to select a
10 witness of his or her own choosing. The person who signs the
11 consent or affidavit must acknowledge in writing on the
12 consent or affidavit that such notice was given and indicate
13 the witness, if any, who was selected by the person signing
14 the consent or affidavit. The adoption entity must include its
15 name, address, and telephone number on the consent to adoption
16 or affidavit of nonpaternity.

17 (e) A consent to adoption must contain, in at least
18 16-point boldfaced type, an acknowledgment of the parent's
19 rights in substantially the following form:

20
21 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
22 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
23 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
24 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
25 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
26 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
27 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
28 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
29 OR WITNESSES YOU SELECTED, IF ANY.
30
31

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

1 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
2 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
3 IT WAS OBTAINED BY FRAUD OR UNDER DURESS.
4
5 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO
6 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S
7 RELEASE FROM A LICENSED HOSPITAL OR BIRTH
8 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE
9 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
10 CHILD. WHILE THE CONSENT IS VALID AND BINDING
11 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.
12 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
13 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
14 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR
15 TO THE PLACEMENT OF THE CHILD WITH THE
16 PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT
17 WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
18 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
19 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
20 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
21 LATER.
22
23 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
24 PERIOD, YOU MUST:
25 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
26 A LETTER, THAT YOU ARE WITHDRAWING YOUR
27 CONSENT.
28 2. MAIL THE LETTER AT A UNITED STATES
29 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
30 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
31 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE

1 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
2 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
3 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
4 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.
5 3. SEND THE LETTER BY CERTIFIED UNITED
6 STATES MAIL WITH RETURN RECEIPT REQUESTED.
7 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
8 THE LETTER.
9 5. KEEP THE CERTIFIED MAIL RECEIPT AS
10 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
11 MANNER.
12
13 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
14 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
15 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,
16 IN WRITING BY CERTIFIED UNITED STATES MAIL,
17 RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY
18 YOU SHOULD NOTIFY IS: ...(name of adoption
19 entity)..., ...(address of adoption entity)...,
20 ...(phone number of adoption entity)....
21
22 ONCE THE REVOCATION PERIOD IS OVER, OR THE
23 CHILD HAS BEEN PLACED WITH THE PROSPECTIVE
24 ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU
25 MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN
26 PROVE IN COURT THAT CONSENT WAS OBTAINED BY
27 FRAUD OR UNDER DURESS.
28
29 (5) Before any consent to adoption or affidavit of
30 nonpaternity is executed by a parent, but after the birth of
31

1 the minor, all requirements of disclosure under s. 63.085 must
2 be met.

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

17 (7)~~(5)~~(a) A consent that is being withdrawn under
18 paragraph (4)(c) may be withdrawn at any time prior to the
19 minor's placement with the prospective adoptive parents or by
20 notifying the adoption entity in writing by certified United
21 States mail, return receipt requested, not later than 3
22 business days after execution of the consent or 1 business day
23 after the date of the birth mother's discharge from a licensed
24 hospital or birth center, whichever occurs later. As used in
25 this subsection, the term "business day" means any day on
26 which the United States Postal Service accepts certified mail
27 for delivery.

28 (b) Upon receiving written notice from a person of
29 that person's desire to withdraw consent to adoption, the
30 adoption entity must contact the prospective adoptive parent
31 to arrange a time certain for the adoption entity to regain

1 physical custody of the minor, unless, upon a motion for
2 emergency hearing by the adoption entity, the court determines
3 in written findings that placement of the minor with the
4 person withdrawing consent may endanger the minor.

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

12 (d) If the person withdrawing consent claims to be the
13 father of the minor but has not been established to be the
14 father by marriage, court order, or scientific testing, the
15 court may order scientific paternity testing and reserve
16 ruling on removal of the minor until the results of such
17 testing have been filed with the court.

18 (e) The adoption entity must return the minor within 3
19 days after notification of the withdrawal of consent or after
20 the court determines that withdrawal is valid and binding upon
21 consideration of an emergency motion, as filed pursuant to
22 subsection (b), to the physical custody of the person
23 withdrawing consent.

24 (f) Following the revocation period for withdrawal of
25 consent described in paragraph (a), or the placement of the
26 child with the prospective adoptive parents, whichever occurs
27 later, consent may be withdrawn only when the court finds that
28 the consent was obtained by fraud or under duress.

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

1 Section 14. Section 63.085, Florida Statutes, is
2 amended to read:

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

5 63.085 Disclosure by adoption entity.--

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

19
20 ADOPTION DISCLOSURE

21
22 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
23 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
24 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
25 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
26 ADOPTION UNDER FLORIDA LAW:

27
28 1. Under section 63.102, Florida
29 Statutes, the existence of a placement or
30 adoption contract signed by the parent or
31 prospective adoptive parent, prior approval of

1 that contract by the court, or payment of any
2 expenses permitted under Florida law does not
3 obligate anyone to sign a consent or ultimately
4 place a minor for adoption.

5 2. Under sections 63.092 and 63.125,
6 Florida Statutes, a favorable preliminary home
7 study, before the minor may be placed in that
8 home, and a final home investigation, before
9 the adoption becomes final, must be completed.

10 3. Under section 63.082, Florida
11 Statutes, a consent to adoption or affidavit of
12 nonpaternity may not be signed until after the
13 birth of the minor.

14 4. Under section 63.082, Florida
15 Statutes, if the minor is to be placed for
16 adoption with identified prospective adoptive
17 parents upon release from a licensed hospital
18 or birth center following birth, the consent to
19 adoption may not be signed until 48 hours after
20 birth or until the day the birth mother has
21 been notified in writing, either on her patient
22 chart or in release papers, that she is fit to
23 be released from the licensed hospital or birth
24 center, whichever is sooner. The consent to
25 adoption or affidavit of nonpaternity is valid
26 and binding upon execution unless the court
27 finds it was obtained by fraud or under duress.

28 5. Under section 63.082, Florida
29 Statutes, if the minor is not placed for
30 adoption with the prospective adoptive parent
31 upon release from the hospital or birth center

1 following birth, a 3-day revocation period
2 applies during which consent may be withdrawn
3 for any reason by notifying the adoption entity
4 in writing. In order to withdraw consent, the
5 written withdrawal of consent must be mailed at
6 a United States Post Office no later than 3
7 business days after execution of the consent or
8 1 business day after the date of the birth
9 mother's discharge from a licensed hospital or
10 birth center, whichever occurs later. For
11 purposes of mailing the withdrawal of consent,
12 the term "business day" means any day on which
13 the United States Postal Service accepts
14 certified mail for delivery. The letter must be
15 sent by certified United States mail, return
16 receipt requested. Postal costs must be paid at
17 the time of mailing and the receipt should be
18 retained as proof that consent was withdrawn in
19 a timely manner.

20 6. Under section 63.082, Florida
21 Statutes, and notwithstanding the revocation
22 period, the consent may be withdrawn at any
23 time prior to the placement of the child with
24 the prospective adoptive parent, by notifying
25 the adoption entity in writing by certified
26 United States mail, return receipt requested.

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

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

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

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

30 10. Under section 63.088, Florida
31 Statutes, specific and extensive efforts are

1 required by law to attempt to obtain the
2 consents required under section 63.062, Florida
3 Statutes. If these efforts are unsuccessful,
4 the court may not enter a judgment terminating
5 parental rights pending adoption until certain
6 requirements have been met.

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

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

27 13. Under section 63.089, Florida
28 Statutes, a judgment terminating parental
29 rights pending adoption is voidable and any
30 later judgment of adoption of that minor is
31 voidable if, upon the motion of a parent, the

1 court finds that any person knowingly gave
2 false information that prevented the parent
3 from timely making known his or her desire to
4 assume parental responsibilities toward the
5 minor or to exercise his or her parental
6 rights. The motion must be filed with the court
7 that originally entered the judgment. The
8 motion must be filed within a reasonable time,
9 but not later than 2 years after the date the
10 judgment to which the motion is directed was
11 entered.

12 14. Under section 63.165, Florida
13 Statutes, the State of Florida maintains a
14 registry of adoption information. Information
15 about the registry is available from the
16 Department of Children and Family Services.

17 15. Under section 63.032, Florida
18 Statutes, a court may find that a parent has
19 abandoned his or her child based on conduct
20 during the pregnancy or based on conduct after
21 the child is born. In addition, under section
22 63.089, Florida Statutes, the failure of a
23 parent to respond to notices of proceedings
24 involving his or her child shall result in
25 termination of parental rights of a parent. A
26 lawyer can explain what a parent must do to
27 protect his or her parental rights. Any parent
28 wishing to protect his or her parental rights
29 should act IMMEDIATELY.

30 16. Each parent and prospective adoptive
31 parent is entitled to independent legal advice

1 and representation. Attorney information may be
2 obtained from the yellow pages, The Florida
3 Bar's lawyer referral service, and local legal
4 aid offices and bar associations.

5 17. Counseling services may be helpful
6 while making a parenting decision. Consult the
7 yellow pages of the telephone directory.

8 18. Medical and social services support
9 is available if the parent wishes to retain
10 parental rights and responsibilities. Consult
11 the Department of Children and Family Services.

12 19. Under section 63.039, Florida
13 Statutes, an adoption entity has certain legal
14 responsibilities and may be liable for damages
15 to persons whose consent to an adoption is
16 required or to prospective adoptive parents for
17 failing to materially meet those
18 responsibilities. Damages may also be recovered
19 from an adoption entity if a consent to
20 adoption or affidavit of nonpaternity is
21 obtained by fraud or under duress attributable
22 to an adoption entity.

23 20. Under section 63.097, Florida
24 Statutes, reasonable living expenses of the
25 birth mother may be paid by the prospective
26 adoptive parents and the adoption entity only
27 if the birth mother is unable to pay due to
28 unemployment, underemployment, or disability.
29 The law also allows payment of reasonable and
30 necessary medical expenses, expenses necessary
31 to comply with the requirements of chapter 63,

1 Florida Statutes, court filing expenses, and
2 costs associated with advertising. Certain
3 documented legal, counseling, and other
4 professional fees may be paid. Prior approval
5 of the court is not required until the
6 cumulative total of amounts permitted exceeds
7 \$2,500 in legal or other fees, \$500 in court
8 costs, \$3,000 in expenses or \$1,500 in
9 cumulative expenses incurred prior to the date
10 the prospective adoptive parent retains the
11 adoption entity. The following fees, costs, and
12 expenses are prohibited:

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

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

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

22
23 The court may reduce amounts charged or refund
24 amounts that have been paid if it finds that
25 these amounts were more than what was
26 reasonable or allowed under the law.

27 21. Under section 63.132, Florida
28 Statutes, the adoption entity and the
29 prospective adoptive parents must sign and file
30 with the court a written statement under oath
31 listing all the fees, expenses, and costs made,

1 or agreed to be made, by or on behalf of the
2 prospective adoptive parents and any adoption
3 entity in connection with the adoption. The
4 affidavit must state whether any of the
5 expenses were eligible to be paid for by any
6 other source.

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

18
19 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
20 must obtain a written statement acknowledging receipt of the
21 disclosure required under subsection (1) and signed by the
22 persons receiving the disclosure or, if it is not possible to
23 obtain such an acknowledgment, the adoption entity must
24 execute an affidavit stating why an acknowledgment could not
25 be obtained. If the disclosure was delivered by certified
26 United States mail, return receipt requested, a return receipt
27 signed by the person from whom acknowledgment is required is
28 sufficient to meet the requirements of this subsection. A copy
29 of the acknowledgment of receipt of the disclosure must be
30 provided to the person signing it. A copy of the
31 acknowledgment or affidavit executed by the adoption entity in

1 lieu of the acknowledgment must be maintained in the file of
2 the adoption entity. The original acknowledgment or affidavit
3 must be filed with the court. In the case of a disclosure
4 provided under subsection (1), the original acknowledgment or
5 affidavit must be included in the preliminary home study
6 required in s. 63.092.

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

12 Section 15. Section 63.087, Florida Statutes, is
13 created to read:

14 63.087 Proceeding to terminate parental rights pending
15 adoption; general provisions.--

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

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

23 (3) JURISDICTION.--A court of this state which is
24 competent to decide child welfare or custody matters has
25 jurisdiction to hear all matters arising from a proceeding to
26 terminate parental rights pending adoption. All subsequent
27 proceedings for the adoption of the minor, if the petition for
28 termination is granted, must be conducted by the same judge
29 who conducted the termination proceedings, if that judge is
30 still available within the division of the court which

31

1 conducts termination or adoption cases or, if that judge is
2 unavailable, by another judge within the division.

3 (4) VENUE.--

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

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

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

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

21 4. If there is no consent or affidavit of nonpaternity
22 executed by a parent, in the county where the birth mother
23 resides.

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

26 (b) Regardless of the age of the child, if the
27 adoption entity is notified that a parent whose parental
28 rights are to be terminated intends to contest the
29 termination, venue must be in the county where that parent
30 resides. If there is no such residence in this state, venue
31 must be in the county where:

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

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

5 3. The adoption entity is located if neither
6 subparagraph 1. nor subparagraph 2. applies.

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

14 (d) If there is a transfer of venue, the adoption
15 entity or the petitioner shall bear the cost of venue
16 transfer.

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

23 (6) PETITION.--

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

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

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

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

5 (d) A petition to terminate parental rights may be
6 consolidated with a previously filed petition for a
7 declaratory statement filed under s. 63.102. Only one filing
8 fee may be assessed for both the termination of parental
9 rights and declaratory-statement petitions.

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

17 (f) The petition must include:

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

28 2. If the petition is filed before the day the minor
29 is 6 months old and if the identity or location of the father
30 is unknown, each city in which the mother resided or traveled,
31 in which conception may have occurred, during the 12 months

1 before the minor's birth, including the county and state in
2 which that city is located.

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

8 a. The minor's mother;

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

11 c. Any person who has legal custody, as defined in s.
12 39.01, of the minor.

13
14 If a required name or address is not known, the petition must
15 so state.

16 4. All information required by the Uniform Child
17 Custody Jurisdiction Act and the Indian Child Welfare Act.

18 5. A statement of the grounds under s. 63.089 upon
19 which the petition is based.

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

22 7. The name, address, and telephone number of the
23 division of the circuit court in which the petition is to be
24 filed.

25 (7) ANSWER NOT REQUIRED.--An answer to the petition or
26 any pleading need not be filed by any minor, parent, or person
27 having legal custody of the minor, but any matter that might
28 be set forth in an answer or other pleading may be pleaded
29 orally before the court or filed in writing. However, failure
30 to file a written response or to appear at the hearing on the
31 petition constitutes grounds upon which the court may

1 terminate parental rights. Notwithstanding the filing of any
2 answer or any pleading, any person present at the hearing to
3 terminate parental rights pending adoption whose consent to
4 adoption is required under s. 63.062 must:

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

8 (b) Be given an opportunity to deny the allegations in
9 the petition; and

10 (c) Be given the opportunity to challenge the validity
11 of any consent or affidavit of nonpaternity signed by any
12 person.

13 Section 16. Section 63.088, Florida Statutes, is
14 created to read:

15 63.088 Proceeding to terminate parental rights pending
16 adoption; notice and service; diligent search.--

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

28 (2) LOCATION AND IDENTITY KNOWN.--Before the court may
29 determine that a minor is available for adoption, and in
30 addition to the other requirements set forth in this chapter,
31 each person whose consent is required under s. 63.062, who has

1 not executed an affidavit of nonpaternity and whose location
2 and identity have been determined by compliance with the
3 procedures in this section, must be personally served,
4 pursuant to chapter 48, at least 30 days before the hearing
5 with a copy of the petition to terminate parental rights
6 pending adoption and with notice in substantially the
7 following form:

8
9 NOTICE OF PETITION AND HEARING
10 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

11
12 A petition to terminate parental rights pending
13 adoption has been filed. A copy of the petition
14 is being served with this notice. There will be
15 a hearing on the petition to terminate parental
16 rights pending adoption on ... (date) ... at
17 ... (time) ... before ... (judge) ... at ...
18 (location, including complete name and street
19 address of the courthouse) The court has
20 set aside ... (amount of time) ... for this
21 hearing. If you executed a consent or an
22 affidavit of nonpaternity and a waiver of
23 venue, you have the right to request that the
24 termination of parental rights hearing be
25 transferred to the county in which you reside.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 sources, contacts with those relatives, and inquiry as to the
2 person's last known address. The petitioner shall pursue any
3 leads of any addresses to which the person may have moved.
4 Relatives include, but are not limited to, parents, brothers,
5 sisters, aunts, uncles, cousins, nieces, nephews,
6 grandparents, great-grandparents, former or current in-laws,
7 stepparents, and stepchildren;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Section 17. Section 63.089, Florida Statutes, is
7 created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (g) Has been properly served notice of the proceeding
6 in accordance with the requirements of this chapter, but whom
7 the court finds, after examining written reasons for the
8 withholding of consent, to be unreasonably withholding his or
9 her consent; or

10 (h) Is the spouse of the person to be adopted who has
11 failed to consent, and the failure of the spouse to consent to
12 the adoption is excused by reason of prolonged and unexplained
13 absence, unavailability, incapacity, or circumstances that are
14 found by the court to constitute unreasonable withholding of
15 consent.

16 (4) FINDING OF ABANDONMENT.--A finding of abandonment
17 resulting in a termination of parental rights must be based
18 upon clear and convincing evidence. A finding of abandonment
19 may not be based upon a lack of emotional support to a birth
20 mother during her pregnancy, but may be based upon emotional
21 abuse to a birth mother during her pregnancy.

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

25 1. Whether the actions alleged to constitute
26 abandonment demonstrate a willful disregard for the safety or
27 welfare of the child or unborn child;

28 2. Whether other persons prevented the person alleged
29 to have abandoned the child from making the efforts referenced
30 in this subsection;

31

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

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

10 5. Whether the amount of support provided or medical
11 expenses paid was appropriate, taking into consideration the
12 needs of the child and relative means and resources available
13 to the person alleged to have abandoned the child and
14 available to the person having legal custody of the child
15 during the period the child allegedly was abandoned; and

16 6. Whether the person having legal custody of the
17 child made the child's whereabouts known to the person alleged
18 to have abandoned the child, advised that person of the needs
19 of the child or the needs of the mother of an unborn child
20 with regard to the pregnancy, or informed that person of
21 events such as medical appointments and tests relating to the
22 child or, if unborn, the pregnancy.

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

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

30 2. The incarcerated parent has been determined by the
31 court to be a violent career criminal as defined in s.

1 775.084, a habitual violent felony offender as defined in s.
2 775.084, convicted of child abuse as defined in s. 827.03, or
3 a sexual predator as defined in s. 775.21; has been convicted
4 of first degree or second degree murder in violation of s.
5 782.04 or a sexual battery that constitutes a capital, life,
6 or first degree felony violation of s. 794.011; or has been
7 convicted of an offense in another jurisdiction which is
8 substantially similar to one of the offenses listed in this
9 paragraph. As used in this section, the term "substantially
10 similar offense" means any offense that is substantially
11 similar in elements and penalties to one of those listed in
12 this paragraph, and that is in violation of a law of any other
13 jurisdiction, whether that of another state, the District of
14 Columbia, the United States or any possession or territory
15 thereof, or any foreign jurisdiction; and

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

21 (c) The only conduct of a father toward a mother
22 during pregnancy that the court may consider in determining
23 whether the child has been abandoned is conduct that occurred
24 after the father was informed he may be the father of the
25 child or after diligent search and notice as provided in s.
26 63.088 have been made to inform the father that he is, or may
27 be, the father of the child.

28 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
29 court does not find by clear and convincing evidence that
30 parental rights of a parent should be terminated pending
31 adoption, the court must dismiss the petition with prejudice

1 and that parent's parental rights that were the subject of
2 such petition remain in full force under the law. The order
3 must include written findings in support of the dismissal,
4 including findings as to the criteria in subsection (4) if
5 rejecting a claim of abandonment. Parental rights may not be
6 terminated based upon a consent that the court finds has been
7 timely withdrawn under s. 63.082 or a consent to adoption or
8 affidavit of nonpaternity that the court finds was obtained by
9 fraud or under duress. The court must enter an order based
10 upon written findings providing for the placement of the
11 minor. The court may order scientific testing to determine the
12 paternity of the minor at any time during which the court has
13 jurisdiction over the minor. Further proceedings, if any,
14 regarding the minor must be brought in a separate custody
15 action under chapter 61, a dependency action under chapter 39,
16 or a paternity action under chapter 742.

17 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
18 ADOPTION.--

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

22 (b) Within 24 hours after filing, the clerk of the
23 court shall mail a copy of the judgment to the department, the
24 petitioner, those persons required to give consent under s.
25 63.062, and the respondent. The clerk shall execute a
26 certificate of each mailing.

27 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
28 RIGHTS.--

29 (a) A judgment terminating parental rights pending
30 adoption is voidable and any later judgment of adoption of
31 that minor is voidable if, upon the motion of a parent, the

1 court finds that a person knowingly gave false information
2 that prevented the parent from timely making known his or her
3 desire to assume parental responsibilities toward the minor or
4 meeting the requirements under this chapter to exercise his or
5 her parental rights. A motion under this subsection must be
6 filed with the court originally entering the judgment. The
7 motion must be filed within a reasonable time, but not later
8 than 2 years after the entry of the judgment terminating
9 parental rights.

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

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

31

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

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

12 Section 18. Section 63.092, Florida Statutes, 1998
13 Supplement, is amended to read:

14 63.092 Report to the court of intended placement by an
15 adoption entity; at-risk placement ~~intermediary~~; preliminary
16 study.--

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

24 (2) AT-RISK PLACEMENT.--If the minor is placed in the
25 prospective adoptive home before the parental rights of the
26 minor's parents are terminated under s. 63.089, the placement
27 is an at-risk placement. If the placement is an at-risk
28 placement, the prospective adoptive parents must acknowledge
29 in writing before the minor may be placed in the prospective
30 adoptive home that the placement is at risk and that the minor
31

1 is subject to removal from the prospective adoptive home by
2 the adoption entity or by court order.

3 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the
4 minor in the intended adoptive home, a preliminary home study
5 must be performed by a licensed child-placing agency, a
6 licensed professional, or agency described in s. 61.20(2),
7 unless the petitioner is a stepparent, a spouse of the ~~birth~~
8 parent, or a relative. The preliminary study shall be
9 completed within 30 days after the receipt by the court of the
10 adoption entity's ~~intermediary's~~ report, but in no event may
11 the minor ~~child~~ be placed in the prospective adoptive home
12 prior to the completion of the preliminary study unless
13 ordered by the court. If the petitioner is a stepparent, a
14 spouse of the ~~birth~~ parent, or a relative, the preliminary
15 home study may be required by the court for good cause shown.
16 The department is required to perform the preliminary home
17 study only if there is no licensed child-placing agency,
18 licensed professional, or agency described in s. 61.20(2), in
19 the county where the prospective adoptive parents reside. The
20 preliminary home study must be made to determine the
21 suitability of the intended adoptive parents and may be
22 completed prior to identification of a prospective adoptive
23 minor ~~child~~. A favorable preliminary home study is valid for
24 1 year after the date of its completion. A minor ~~may~~ ~~child~~
25 ~~must~~ not be placed in an intended adoptive home before a
26 favorable preliminary home study is completed unless the
27 adoptive home is also a licensed foster home under s. 409.175.
28 The preliminary home study must include, at a minimum:

- 29 (a) An interview with the intended adoptive parents;
30 (b) Records checks of the department's central abuse
31 registry and criminal records correspondence checks pursuant

1 to s. 435.045 through the Department of Law Enforcement on the
2 intended adoptive parents;

3 (c) An assessment of the physical environment of the
4 home;

5 (d) A determination of the financial security of the
6 intended adoptive parents;

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

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

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

15 (h) A copy of each ~~the~~ signed acknowledgment ~~statement~~
16 required by s. 63.085; ~~and~~

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

19
20 If the preliminary home study is favorable, a minor may be
21 placed in the home pending entry of the judgment of adoption.
22 A minor may not be placed in the home if the preliminary home
23 study is unfavorable. If the preliminary home study is
24 unfavorable, the adoption entity ~~intermediary or petitioner~~
25 may, within 20 days after receipt of a copy of the written
26 recommendation, petition the court to determine the
27 suitability of the intended adoptive home. A determination as
28 to suitability under this subsection does not act as a
29 presumption of suitability at the final hearing. In
30 determining the suitability of the intended adoptive home, the
31

1 court must consider the totality of the circumstances in the
2 home.

3 Section 19. Section 63.097, Florida Statutes, is
4 amended to read:

5 63.097 Fees.--

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

9 (a) Foster care expenses;

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

11 and

12 (c) Agency facility and administrative costs.

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

16 (a) Reasonable living expenses of the birth mother
17 which the birth mother is unable to pay due to unemployment,
18 underemployment, or disability due to the pregnancy which is
19 certified by a medical professional who has examined the birth
20 mother, or any other disability defined in s. 110.215.

21 Reasonable living expenses are rent, utilities, basic
22 telephone service, food, necessary clothing, transportation,
23 and expenses found by the court to be necessary for the health
24 of the unborn child.

25 (b) Reasonable and necessary medical expenses.

26 (c) Expenses necessary to comply with the requirements
27 of this chapter, including, but not limited to, service of
28 process under s. 63.088, a diligent search under s. 63.088, a
29 preliminary home study under s. 63.092, and a final home
30 investigation under s. 63.125.

31

1 (d) Court filing expenses, court costs, and other
2 litigation expenses.

3 (e) Costs associated with advertising under s.
4 63.212(1)(g).

5 (f) The following professional fees:

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

9 2. A reasonable hourly fee for contact with the parent
10 related to the adoption. In determining a reasonable hourly
11 fee under this subparagraph, the court must consider if the
12 tasks done were clerical or of such a nature that the matter
13 could have been handled by support staff at a lesser rate than
14 the rate for legal representation charged under subparagraph

15 1. Such tasks specifically do not include obtaining a parent's
16 signature on any document; such tasks include, but need not be
17 limited to, transportation, transmitting funds, arranging
18 appointments, and securing accommodations.

19 3. A reasonable hourly fee for counseling services
20 provided to a parent or a prospective adoptive parent by a
21 psychologist licensed under chapter 490 or a clinical social
22 worker, marriage and family therapist, or mental health
23 counselor licensed under chapter 491, or a counselor who is
24 employed by an adoption entity accredited by the Council on
25 Accreditation of Services for Children and Families to provide
26 pregnancy counseling and supportive services.

27 (3) Prior approval of the court is not required until
28 the cumulative total of amounts permitted under subsection (2)
29 exceeds:

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

31 (b) \$500 in court costs;

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

2 (d) \$1,500 cumulative expenses that are related to the
3 minor, the pregnancy, a parent, or adoption proceeding, which
4 expenses are incurred prior to the date the prospective
5 adoptive parent retains the adoption entity.

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

10 (5) The following fees, costs, and expenses are
11 prohibited:

12 (a) Any fee or expense that constitutes payment for
13 locating a minor for adoption.

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

17 (c) Any fee on the affidavit which does not specify
18 the service that was provided and for which the fee is being
19 charged, such as a fee for facilitation, acquisition, or other
20 similar service, or which does not identify the date the
21 service was provided, the time required to provide the
22 service, the person or entity providing the service, and the
23 hourly fee charged.

24 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~
25 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~
26 ~~\$2,500, paid to an intermediary other than actual, documented~~
27 ~~medical costs, court costs, and hospital costs must be~~
28 ~~approved by the court prior to assessment of the fee by the~~
29 ~~intermediary and upon a showing of justification for the~~
30 ~~larger fee.~~

31

1 ~~(6)(2) FEES FOR AGENCIES OR THE DEPARTMENT.~~ Unless
2 otherwise indicated in this section, when an adoption entity
3 intermediary uses the services of a licensed child-placing
4 agency, a professional, any other person or agency pursuant to
5 s. 63.092, or, if necessary, the department, the person
6 seeking to adopt the child must pay the licensed child-placing
7 agency, professional, other person or agency, or the
8 department an amount equal to the cost of all services
9 performed, including, but not limited to, the cost of
10 conducting the preliminary home study, counseling, and the
11 final home investigation. The court, upon a finding that the
12 person seeking to adopt the child is financially unable to pay
13 that amount, may order that such person pay a lesser amount.

14 Section 20. Section 63.102, Florida Statutes, is
15 amended to read:

16 63.102 Filing of petition for adoption or declaratory
17 statement; venue; proceeding for approval of fees and costs.--

18 (1) A petition for adoption may not be filed until 30
19 days after the date of the entry of the judgment terminating
20 parental rights pending adoption under this chapter, unless
21 the adoptee is an adult or the minor has been the subject of a
22 judgment terminating parental rights under chapter 39. After a
23 judgment terminating parental rights has been entered, a
24 proceeding for adoption may shall be commenced by filing a
25 petition entitled, "In the Matter of the Adoption of" in
26 the circuit court. The person to be adopted shall be
27 designated in the caption in the name by which he or she is to
28 be known if the petition is granted. ~~if the child is placed~~
29 ~~for adoption by an agency,~~ Any name by which the minor child
30 was previously known may shall not be disclosed in the
31 petition, the notice of hearing, or the judgment of adoption.

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

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

23 (4) If the filing of the petition for adoption or for
24 a declaratory statement as to the adoption contract in the
25 county where the petitioner or minor child resides would tend
26 to endanger the privacy of the petitioner or minor child, the
27 petition for adoption may be filed in a different county,
28 provided the substantive rights of any person will not thereby
29 be affected.

30 (5) A proceeding for prior approval of fees and costs
31 may be commenced any time after an agreement is reached

1 between the birth mother and the adoptive parents by filing a
2 petition for declaratory statement on the agreement entitled
3 "In the Matter of the Proposed Adoption of a Minor Child" in
4 the circuit court.

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

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

21 (c) The court may grant prior approval only of fees
22 and expenses permitted under s. 63.097. A prior approval of
23 prospective fees and costs does not create a presumption that
24 these items will subsequently be approved by the court under
25 s. 63.132. The court, under s. 63.132, may order an adoption
26 entity to refund any amount paid under this subsection that is
27 subsequently found by the court to be greater than fees,
28 costs, and expenses actually incurred.

29 (d) The contract may not require, and the court may
30 not approve, any lump-sum payment to the entity which is
31

1 nonrefundable to the payor or any amount that constitutes
2 payment for locating a minor for adoption.

3 (e) A petition for adoption filed under this section
4 may be consolidated with a previously filed petition for a
5 declaratory statement. Only one filing fee may be assessed for
6 both the adoption and declaratory-statement petitions.

7 (f) Prior approval of fees and costs by the court does
8 not obligate the parent to ultimately relinquish the minor for
9 adoption.~~If a petition for adoption is subsequently filed,~~
10 ~~the petition for declaratory statement and the petition for~~
11 ~~adoption must be consolidated into one case.~~

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

14 63.112 Petition for adoption; description; report or
15 recommendation, exceptions; mailing.--

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

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

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

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

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

27 (e) The marital status of the petitioner, including
28 the date and place of marriage, if married, and divorces, if
29 any;

30
31

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

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

6 (h) The case style and date of entry of the judgment
7 terminating parental rights or the judgment declaring a minor
8 available for adoption name and address, if known, of any
9 ~~person whose consent to the adoption is required, but who has~~
10 ~~not consented, and facts or circumstances that excuse the lack~~
11 ~~of consent; and~~

12 (i) The reasons why the petitioner desires to adopt
13 the person.

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

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

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

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

26 1. ~~The birth mother, if parental rights have not been~~
27 ~~terminated;~~

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

30 3. the minor child, if older than 12 years of age,
31 unless the court, in the best interest of the minor child,

1 dispenses with the minor's ~~child's~~ consent under s.
2 63.062(1)(f)~~63.062(1)(c)~~.

3
4 ~~The court may waive the requirement for an interview with the~~
5 ~~birth mother or birth father in the investigation for good~~
6 ~~cause shown.~~

7 (3) Unless ordered by the court, no report or
8 recommendation is required when the placement is a stepparent
9 adoption or when the minor ~~child~~ is related to one of the
10 adoptive parents within the third degree.

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

15 Section 22. Section 63.122, Florida Statutes, is
16 amended to read:

17 63.122 Notice of hearing on petition.--

18 (1) After the petition to adopt a minor is filed, the
19 court must establish a time and place for hearing the
20 petition. The hearing may ~~must~~ not be held sooner than 30 days
21 after the date the judgment terminating parental rights was
22 entered or sooner than 90 days after the date the minor was
23 placed ~~the placing of the minor~~ in the physical custody of the
24 petitioner. The minor must remain under the supervision of
25 the adoption entity ~~department, an intermediary, or a licensed~~
26 ~~child-placing agency~~ until the adoption becomes final. When
27 the petitioner is a spouse of the birth parent, the hearing
28 may be held immediately after the filing of the petition.

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

1 (3) Upon a showing by the petitioner that the privacy
2 of the petitioner or minor child may be endangered, the court
3 may order the names of the petitioner or minor child, or both,
4 to be deleted from the notice of hearing and from the copy of
5 the petition attached thereto, provided the substantive rights
6 of any person will not thereby be affected.

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

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

11 ~~(b) The intermediary.~~

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

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

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

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

24 63.125 Final home investigation.--

25 (1) The final home investigation must be conducted
26 before the adoption becomes final. The investigation may be
27 conducted by a licensed child-placing agency or a professional
28 in the same manner as provided in s. 63.092 to ascertain
29 whether the adoptive home is a suitable home for the minor and
30 whether the proposed adoption is in the best interest of the
31 minor. Unless directed by the court, an investigation and

1 recommendation are not required if the petitioner is a
2 stepparent or if the minor child is related to one of the
3 adoptive parents within the third degree of consanguinity.
4 The department is required to perform the home investigation
5 only if there is no licensed child-placing agency or
6 professional pursuant to s. 63.092 in the county in which the
7 prospective adoptive parent resides.

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

13 (3) The report of the investigation must contain an
14 evaluation of the placement with a recommendation on the
15 granting of the petition for adoption and any other
16 information the court requires regarding the petitioner or the
17 minor.

18 (4) The department, the licensed child-placing agency,
19 or the professional making the required investigation may
20 request other state agencies or child-placing agencies within
21 or outside this state to make investigations of designated
22 parts of the inquiry and to make a written report to the
23 department, the professional, or other person or agency.

24 (5) The final home investigation must include:

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

26 (b) After the minor child is placed in the intended
27 adoptive home, two scheduled visits with the minor child and
28 the minor's child's adoptive parent or parents, one of which
29 visits must be in the home, to determine the suitability of
30 the placement.

31

1 (c) The family social and medical history as provided
2 in s. 63.082.

3 (d) Any other information relevant to the suitability
4 of the intended adoptive home.

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

7 Section 24. Section 63.132, Florida Statutes, is
8 amended to read:

9 63.132 Affidavit ~~Report~~ of expenses ~~expenditures~~ and
10 receipts.--

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

15 (a) The affidavit must be signed by the adoption
16 entity and the prospective adoptive parents. A copy of the
17 affidavit must be provided to the adoptive parents at the time
18 the affidavit is executed.

19 (b) The affidavit must itemize ~~containing a full~~
20 ~~accounting of~~ all disbursements and receipts of anything of
21 value, including professional and legal fees, made or agreed
22 to be made by or on behalf of the prospective adoptive parent
23 ~~petitioner~~ and any adoption entity intermediary in connection
24 with the adoption ~~or in connection with any prior proceeding~~
25 to terminate parental rights which involved the minor who is
26 the subject of the petition for adoption. The affidavit must
27 also include, for each fee itemized, the service provided for
28 which the fee is being charged, the date the service was
29 provided, the time required to provide the service, the person
30 or entity that provided the service, and the hourly fee
31 charged.

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

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

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

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

7 3.(c) The medical or hospital care received by the
8 mother or by the minor during the mother's prenatal care and
9 confinement.

10 4.(d) The living expenses of the birth mother. The
11 living expenses must be documented in detail to apprise the
12 court of the exact expenses incurred.

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

17
18 The affidavit must state whether any of these expenses were
19 paid for by collateral sources, including, but not limited to,
20 health insurance, Medicaid, Medicare, or public assistance.

21 (2) The court may require such additional information
22 as is deemed necessary.

23 (3) The court must issue a separate order approving or
24 disapproving the fees, costs, and expenses itemized in the
25 affidavit. The court may approve only fees, costs, and
26 expenditures allowed under s. 63.097. The court may reject in
27 whole or in part any fee, cost, or expenditure listed if the
28 court finds that the expense is:

29 (a) Contrary to this chapter;

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

1 (c) Not a reasonable fee or expense, considering the
2 requirements of this chapter and the totality of the
3 circumstances.

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

7 Section 25. Section 63.142, Florida Statutes, is
8 amended to read:

9 63.142 Hearing; judgment of adoption.--

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

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

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

16 (2) CONTINUANCE.--The court may continue the hearing
17 from time to time to permit further observation,
18 investigation, or consideration of any facts or circumstances
19 affecting the granting of the petition.

20 (3) DISMISSAL.--

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

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

25 (4) JUDGMENT.--At the conclusion of the hearing, after
26 when the court determines that the date for a parent to file
27 an appeal of a valid judgment terminating that parent's
28 parental rights has passed and no appeal, pursuant to the
29 Florida Rules of Appellate Procedure, is pending all necessary
30 consents have been obtained and that the adoption is in the
31

1 best interest of the person to be adopted, a judgment of
2 adoption shall be entered.

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

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

26 (c) At the preliminary hearing, the court, upon the
27 motion of any party or its own motion, may order scientific
28 testing to determine the paternity of the minor if the person
29 seeking to set aside the judgment is alleging to be the
30 child's father and that fact has not previously been
31 determined by legitimacy or scientific testing. The court may

1 order supervised visitation with a person for whom scientific
2 testing for paternity has been ordered. Such visitation shall
3 be conditioned upon the filing of those test results with the
4 court and such results establishing that person's paternity of
5 the minor.

6 (d) Except upon good cause shown, no later than 45
7 days after the preliminary hearing, the court must conduct a
8 final hearing on the motion to set aside the judgment and
9 issue its written order as expeditiously as possible
10 thereafter.

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

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

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

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

12 Section 27. Section 63.165, Florida Statutes, is
13 amended to read:

14 63.165 State registry of adoption information; duty to
15 inform and explain.--Notwithstanding any other law to the
16 contrary, the department shall maintain a registry with the
17 last known names and addresses of an adoptee and his or her
18 ~~natural~~ parents whose consent was required under s. 63.062,
19 and adoptive parents and any other identifying information
20 that which the adoptee, ~~natural~~ parents whose consent was
21 required under s. 63.062, or adoptive parents desire to
22 include in the registry. The department shall maintain the
23 registry records for the time required by rules adopted by the
24 department in accordance with this chapter or for 99 years,
25 whichever period is greater.The registry shall be open with
26 respect to all adoptions in the state, regardless of when they
27 took place. The registry shall be available for those persons
28 choosing to enter information therein, but no one shall be
29 required to do so.

30 (1) Anyone seeking to enter, change, or use
31 information in the registry, or any agent of such person,

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

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

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

1 Section 28. Section 63.182, Florida Statutes, is
2 amended to read:

3 (Substantial rewording of section. See
4 s. 63.182, F.S., for present text.)
5 63.182 Statute of repose.--

6 (1) An action or proceeding of any kind to vacate, set
7 aside, or otherwise nullify a judgment of adoption or an
8 underlying judgment terminating parental rights on any ground,
9 including duress but excluding fraud, shall in no event be
10 filed more than 1 year after entry of the judgment terminating
11 parental rights.

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

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

19 63.202 Authority to license; adoption of rules.--

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

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

25 63.207 Out-of-state placement.--

26 (1) Unless the parent placing a minor for adoption
27 files an affidavit that the parent chooses to place the minor
28 outside the state, giving the reason for that placement, or
29 the minor ~~child~~ is to be placed with a relative within the
30 third degree or with a stepparent, or the minor is a special
31 needs child, as defined in s. 409.166, or for other good cause

1 shown, an adoption entity may not ~~no person except an~~
2 ~~intermediary, an agency, or the department shall:~~

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

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

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

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

1 Section 31. Section 63.212, Florida Statutes, is
2 amended to read:

3 63.212 Prohibited acts; penalties for violation;
4 preplanned adoption agreement.--

5 (1) It is unlawful for any person:

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

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

30 ~~(b)(c) Except an adoption entity the Department of~~
31 ~~Children and Family Services, an agency, or an intermediary,~~

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

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

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

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

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

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

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

31

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

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

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

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

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

24 b. That the volunteer mother agrees to submit to
25 reasonable medical evaluation and treatment and to adhere to
26 reasonable medical instructions about her prenatal health.

27 c. That the volunteer mother acknowledges that she is
28 aware that she will assume parental rights and
29 responsibilities for the child born to her as otherwise
30 provided by law for a mother, if the intended father and
31 intended mother terminate the agreement before final transfer

1 of custody is completed, or if a court determines that a
2 parent clearly specified by the preplanned adoption agreement
3 to be the biological parent is not the biological parent, or
4 if the preplanned adoption is not approved by the court
5 pursuant to the Florida Adoption Act.

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

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

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

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

29 h. That the intended father and intended mother shall
30 have the right to specify the blood and tissue typing tests to
31

1 be performed if the agreement specifies that at least one of
2 them is intended to be the biological parent of the child.

3 i. That the agreement may be terminated at any time by
4 any of the parties.

5 3. A preplanned adoption agreement shall not contain
6 any provision:

7 a. To reduce any amount paid to the volunteer mother
8 if the child is stillborn or is born alive but impaired, or to
9 provide for the payment of a supplement or bonus for any
10 reason.

11 b. Requiring the termination of the volunteer mother's
12 pregnancy.

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

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

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

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

1 b. "Child" means the child or children conceived by
2 means of an insemination that is part of a preplanned adoption
3 arrangement.

4 c. "Fertility technique" means artificial
5 embryonation, artificial insemination, whether in vivo or in
6 vitro, egg donation, or embryo adoption.

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

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

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

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

26 h. "Preplanned adoption arrangement" means the
27 arrangement through which the parties enter into an agreement
28 for the volunteer mother to bear the child, for payment by the
29 intended father and intended mother of the expenses allowed by
30 this act, for the intended father and intended mother to
31 assert full parental rights and responsibilities to the child

1 if consent to adoption is not rescinded after birth by the
2 volunteer mother, and for the volunteer mother to terminate,
3 subject to a right of rescission, in favor of the intended
4 father and intended mother all her parental rights and
5 responsibilities to the child.

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

12 (2)(a) It is unlawful for any person under this
13 chapter to:

14 1. Knowingly provide false information;

15 2. Knowingly withhold material information; or

16 3. For a parent, with the intent to defraud, to accept
17 benefits related to the same pregnancy from more than one
18 adoption entity without disclosing that fact to each entity.

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

24 (c) Any person who willfully violates any provision of
25 this subsection commits a misdemeanor of the second degree,
26 punishable as provided in s. 775.082 or s. 775.083. In
27 addition, such person is liable for damages caused by such
28 acts or omissions, including reasonable attorney's fees and
29 costs. Damages may be awarded through restitution in any
30 related criminal prosecution or by filing a separate civil
31 action.

1 ~~(3)(2)~~ This section does not ~~Nothing herein shall be~~
2 ~~construed to prohibit an adoption entity a licensed~~
3 ~~child-placing agency from charging fees permitted under this~~
4 ~~chapter and~~ reasonably commensurate to the services provided.

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

11 ~~(5)(4)~~ It is unlawful for any adoption entity
12 ~~intermediary~~ to charge any fee except those fees permitted
13 under s. 63.097 and approved under s. 63.102 ~~over \$1,000 and~~
14 ~~those costs as set out in paragraph (1)(d) over \$2,500, other~~
15 ~~than for actual documented medical costs, court costs, and~~
16 ~~hospital costs unless such fee is approved by the court prior~~
17 ~~to the assessment of the fee by the intermediary and upon a~~
18 ~~showing of justification for the larger fee.~~

19 ~~(6)(5)~~ It is unlawful for any adoption entity
20 ~~intermediary~~ to counsel a birth mother to leave the state for
21 the purpose of giving birth to a child outside the state in
22 order to secure a fee in excess of that permitted under s.
23 63.097 when it is the intention that the child be placed for
24 adoption outside the state.

25 ~~(7)(6)~~ It is unlawful for any adoption entity
26 ~~intermediary~~ to obtain a preliminary home study or final home
27 investigation and fail to disclose the existence of the study
28 or investigation to the court.

29 ~~(8)(7)~~ Unless otherwise indicated, a person who
30 violates any provision of this section, excluding paragraph
31 ~~(1)(g)(h),~~ commits ~~is guilty of~~ a felony of the third degree,

1 punishable as provided in s. 775.082, s. 775.083, or s.
2 775.084. A person who violates paragraph (1)(g)(h)commits is
3 ~~guilty of~~ a misdemeanor of the second degree, punishable as
4 provided in s. 775.083; and each day of continuing violation
5 shall be considered a separate offense.

6 Section 32. Section 63.219, Florida Statutes, is
7 amended to read:

8 63.219 Sanctions.--Upon a finding by the court that an
9 adoption entity intermediary or agency has violated any
10 provision of this chapter, the court is authorized to prohibit
11 the adoption entity intermediary or agency from placing a
12 minor for adoption in the future.

13 Section 33. Paragraph (c) of subsection (1) and
14 paragraph (c) of subsection (2) of section 63.301, Florida
15 Statutes, are amended to read:

16 63.301 Advisory council on adoption.--

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

21 (c) One member shall be a representative from a
22 child-caring agency registered under s. 409.176 that physician
23 ~~licensed to practice in Florida who, as an intermediary,~~
24 places or has placed children for adoption.

25
26 All members shall be appointed to serve 2-year terms.

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

28 (c) Review and evaluate law, procedures, policies, and
29 practice regarding the protection of children placed for
30 adoption, ~~birth~~ parents, and adoptive parents utilizing the
31 services of an adoption entity ~~the Department of Children and~~

1 ~~Family Services, licensed child placing agencies, and~~
2 ~~intermediaries,~~ to determine areas needing legislative,
3 administrative, or other interventions.

4 Section 34. Subsection (51) of section 39.01, Florida
5 Statutes, is amended to read:

6 39.01 Definitions.--When used in this chapter, unless
7 the context otherwise requires:

8 (51) "Participant," for purposes of a shelter
9 proceeding, dependency proceeding, or termination of parental
10 rights proceeding, means any person who is not a party but who
11 should receive notice of hearings involving the child,
12 including foster parents or the legal custodian of the child,
13 identified prospective parents, or grandparents entitled to
14 priority for adoption consideration under s. 63.0425, actual
15 custodians of the child, and any other person whose
16 participation may be in the best interest of the child. A
17 community-based agency under contract with the department to
18 provide protective services may be designated as a participant
19 at the discretion of the court. Participants may be granted
20 leave by the court to be heard without the necessity of filing
21 a motion to intervene.

22 Section 35. Subsection (41) of section 984.03, Florida
23 Statutes, is amended to read:

24 984.03 Definitions.--When used in this chapter, the
25 term:

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

1 | legally terminated, or an alleged or prospective parent,
2 | unless the parental status falls within the terms of either s.
3 | 39.503(1)~~s. 39.503~~ or s. 63.062(1)~~s. 63.062(1)(b)~~.

4 | Section 36. Subsection (43) of section 985.03, Florida
5 | Statutes, is amended to read:

6 | 985.03 Definitions.--When used in this chapter, the
7 | term:

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

17 | Section 37. Section 63.072, Florida Statutes, is
18 | repealed.

19 | Section 38. Any petition for adoption filed before
20 | October 1, 2000, shall be governed by the law in effect at the
21 | time the petition was filed.

22 | Section 39. If any provision of this act or the
23 | application thereof to any person or circumstance is held
24 | invalid, the invalidity does not affect other provisions or
25 | applications of the act which can be given effect without the
26 | invalid provision or application, and to this end the
27 | provisions of this act are declared severable.

28 | Section 40. This act shall take effect October 1,
29 | 2000.

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31 |

SENATE SUMMARY

Revises various provisions of the Florida Adoption Act. Removes the authority of licensed child-placing agencies to file actions to terminate parental rights. Provides that a person may not file a petition for adoption until the judgment terminating parental rights becomes final. Provides additional requirements for filing a petition for adoption. Modifies legislative intent and provides definitions. Exempts adoptions initiated after a termination of parental rights under ch. 39, F.S., from certain provisions of ch. 63, F.S. Specifies duties of an adoption entity to prospective adoptive parents. Provides sanctions and awarding of attorney's fees against a party failing to comply. Provides procedures for placement of a minor pending termination of parental rights in an adoption proceeding. Specifies jurisdiction of the court. Provides for affidavits of nonpaternity. Specifies form and contents of such affidavits. Specifies persons who must consent to an adoption. Provides that a party executing an affidavit of nonpaternity must also execute a waiver of venue to termination proceedings under certain circumstances. Provides form for such waiver. Revises the form and requirements for executing consent to an adoption. Makes the requirements applicable to affidavits of nonpaternity. Specifies information that must be disclosed to parents and prospective adoptive parents. Provides for a separate court proceeding to determine whether parental rights should be terminated prior to the filing of a petition for adoption. Provides rules, jurisdiction, and venue for such proceedings. Provides for procedures, notice and service, diligent search, hearing, grounds, dismissal, and judgment in a proceeding to terminate parental rights pending adoption. Provides for confidentiality of records relating to a petition to terminate parental rights. Requires prospective adoptive parents to acknowledge at-risk placement of a minor. Revises fee requirements. Prescribes procedures for filing a petition for adoption. Provides requirements for prior approval of fees and costs. Revises the form and content requirements of a petition for adoption and for an affidavit of expenses and receipts. Mandates a separate court order approving fees, costs, and expenses. Specifies conditions upon which a judgment terminating parental rights pending adoption is voidable. Provides for an evidentiary hearing to determine a minor's placement following a motion to void such a judgment. Requires the Department of Children and Family Services to maintain the names and addresses of an adoptee's parents whose consent was required under s. 63.062, F.S., in the state registry of adoption information. Provides a statute of limitations for actions to vacate a judgment of adoption or a judgment terminating parental rights pending adoption. Provides guidelines for placement of a minor for adoption in another state. Revises penalties and prohibited acts relating to adoptions. Includes as a member of the advisory council on adoption a representative from a child-caring agency registered under s. 409.176, F.S. Repeals s. 63.072, F.S., relating to persons who may

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