

By the Committee on Children and Families; and Senators  
Campbell, Latvala, Cowin, Casas, Childers, Geller and Scott

300-1726-00

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 ss.  
27 984.03, 985.03, F.S.; conforming  
28 cross-references; repealing s. 63.072, F.S.,  
29 relating to persons who may waive required  
30 consent to an adoption; requiring that a  
31 petition for adoption be governed by the law in

1 effect at the time the petition is filed;  
2 providing for severability; providing an  
3 effective date.

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

6  
7 Section 1. Section 39.703, Florida Statutes, is  
8 amended to read:

9 39.703 Initiation of termination of parental rights  
10 proceedings; judicial review.--

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

30 (2) If, at the time of the 12-month judicial review  
31 hearing, a child is not returned to the physical custody of

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

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

26 39.802 Petition for termination of parental rights;  
27 filing; elements.--

28 (1) All proceedings seeking an adjudication to  
29 terminate parental rights pursuant to this chapter must be  
30 initiated by the filing of an original petition by the  
31 department, the guardian ad litem, ~~a licensed child-placing~~

1 ~~agency, or~~ any other person who has knowledge of the facts  
2 alleged or is informed of them and believes that they are  
3 true.

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

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

11 39.806 Grounds for termination of parental rights.--

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

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

23 1. The surrender document must be executed before two  
24 witnesses and a notary public or other person authorized to  
25 take acknowledgments.

26 2. The surrender and consent may be withdrawn after  
27 acceptance by the department ~~or licensed child-placing agency~~  
28 only after a finding by the court that the surrender and  
29 consent were obtained by fraud or duress.

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

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

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

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

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



1 law of any other jurisdiction, whether that of another state,  
2 the District of Columbia, the United States or any possession  
3 or territory thereof, or any foreign jurisdiction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the court may review the appropriateness of the adoptive  
2 placement of the child.

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

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

19 63.022 Legislative intent.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30  
31

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, is  
10 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 as defined in s. 39.01, or  
30 in the care of a prospective adoptive home. No minor shall be  
31 placed in a prospective adoptive home until that home has

1 received a favorable preliminary home study by a licensed  
2 child-placing agency, a licensed professional, or an agency,  
3 as provided in s. 63.092, within 1 year before such placement  
4 in the prospective home. Temporary placement in the  
5 prospective home with the prospective adoptive parents does  
6 not give rise to a presumption that the parental rights of the  
7 parents will 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 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       ...(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 Termination of Parental Rights for the Proposed Adoption  
5 of a Minor Child."

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

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

18 (f) The petition must include:

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

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

1 in which conception may have occurred, during the 12 months  
2 before the minor's birth, including the county and state in  
3 which that city is located.

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

9 a. The minor's mother;

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

12 c. Any person who has legal custody, as defined in s.  
13 39.01, of the minor.

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

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

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

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

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

26 8. A certification of compliance with the requirements  
27 of s. 63.0425 regarding notice to grandparents of an impending  
28 adoption.

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

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

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

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

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

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

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

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

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

12  
13                           NOTICE OF PETITION AND HEARING

14                   TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

15  
16           A petition to terminate parental rights pending  
17 adoption has been filed. A copy of the petition  
18 is being served with this notice. There will be  
19 a hearing on the petition to terminate parental  
20 rights pending adoption on ... (date) ... at  
21 ... (time) ... before ... (judge) ... at ...  
22 (location, including complete name and street  
23 address of the courthouse) .... The court has  
24 set aside ... (amount of time) ... for this  
25 hearing. If you executed a consent or an  
26 affidavit of nonpaternity and a waiver of  
27 venue, you have the right to request that the  
28 termination of parental rights hearing be  
29 transferred to the county in which you reside.  
30  
31

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

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

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

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

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

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

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

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

30           (g) Any person the mother has reason to believe may be  
31          the father.

1  
2 The information required under this subsection may be provided  
3 to the court in the form of a sworn affidavit by a person  
4 having personal knowledge of the facts, addressing each  
5 inquiry enumerated in this subsection, except that, if the  
6 inquiry identifies a father under paragraph (a) or paragraph  
7 (b), the inquiry shall not continue further. The inquiry  
8 required under this subsection may be conducted before the  
9 birth of the minor.

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

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

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

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



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

3           (e) Names and addresses of relatives to the extent  
4 such can be reasonably obtained from the petitioner or other  
5 sources, contacts with those relatives, and inquiry as to the  
6 person's last known address. The petitioner shall pursue any  
7 leads of any addresses to which the person may have moved.  
8 Relatives include, but are not limited to, parents, brothers,  
9 sisters, aunts, uncles, cousins, nieces, nephews,  
10 grandparents, great-grandparents, former or current in-laws,  
11 stepparents, and stepchildren;

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

14           (g) Telephone listings in the area where the person  
15 last resided;

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

18           (i) Highway patrol records in the state where the  
19 person last resided;

20           (j) Department of Corrections records in the state  
21 where the person last resided;

22           (k) Hospitals in the area where the person last  
23 resided;

24           (l) Records of utility companies, including water,  
25 sewer, cable television, and electric companies, in the area  
26 where the person last resided;

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

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

31

1           (o) Search of one Internet databank locator service;  
2 and

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

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

21           (5) LOCATION UNKNOWN OR IDENTITY UNKNOWN.--This  
22 subsection only applies if, as to any person whose consent is  
23 required under s. 63.062 and who has not executed an affidavit  
24 of nonpaternity, the location or identity of the person is  
25 unknown and the inquiry under subsection (3) fails to identify  
26 the person or the diligent search under subsection (4) fails  
27 to locate the person. The unlocated or unidentified person  
28 must be served notice under subsection (2) by constructive  
29 service in the manner provided in chapter 49 in each county  
30 identified in the petition, as provided in s. 63.087(6). The  
31 notice, in addition to all information required in the

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

11 Section 17. Section 63.089, Florida Statutes, is  
12 created to read:

13 63.089 Proceeding to terminate parental rights pending  
14 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

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

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

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

25 3. Notice has been provided under ss. 63.087 and  
26 63.088;

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

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

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

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

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

7           (d) The petition contains all information required  
8 under s. 63.087 and all affidavits of inquiry, diligent  
9 search, and service required under s. 63.088 have been  
10 obtained and filed with the court.

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

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

20           (b) Has executed an affidavit of nonpaternity and the  
21 affidavit was obtained according to the requirements of this  
22 chapter;

23           (c) Has been properly served notice of the proceeding  
24 in accordance with the requirements of this chapter and has  
25 failed to file a written answer or appear at the evidentiary  
26 hearing resulting in the judgment terminating parental rights  
27 pending adoption;

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

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

4       (f) Is a person who has legal custody of the person to  
5 be adopted, other than a parent, who has failed to respond in  
6 writing to a request for consent for a period of 60 days or,  
7 after examination of his or her written reasons for  
8 withholding consent, is found by the court to be withholding  
9 his or her consent unreasonably;

10       (g) Has been properly served notice of the proceeding  
11 in accordance with the requirements of this chapter, but whom  
12 the court finds, after examining written reasons for the  
13 withholding of consent, to be unreasonably withholding his or  
14 her consent; or

15       (h) Is the spouse of the person to be adopted who has  
16 failed to consent, and the failure of the spouse to consent to  
17 the adoption is excused by reason of prolonged and unexplained  
18 absence, unavailability, incapacity, or circumstances that are  
19 found by the court to constitute unreasonable withholding of  
20 consent.

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

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

30  
31

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

4           2. Whether other persons prevented the person alleged  
5 to have abandoned the child from making the efforts referenced  
6 in this subsection;

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

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

16           5. Whether the amount of support provided or medical  
17 expenses paid was appropriate, taking into consideration the  
18 needs of the child and relative means and resources available  
19 to the person alleged to have abandoned the child and  
20 available to the person having legal custody of the child  
21 during the period the child allegedly was abandoned; and

22           6. Whether the person having legal custody of the  
23 child made the child's whereabouts known to the person alleged  
24 to have abandoned the child, advised that person of the needs  
25 of the child or the needs of the mother of an unborn child  
26 with regard to the pregnancy, or informed that person of  
27 events such as medical appointments and tests relating to the  
28 child or, if unborn, the pregnancy.

29           (b) The child has been abandoned when the parent of a  
30 child is incarcerated on or after October 1, 2000, in a state  
31 or federal correctional institution and:

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

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

22           3. The court determines by clear and convincing  
23 evidence that continuing the parental relationship with the  
24 incarcerated parent would be harmful to the child and, for  
25 this reason, that termination of the parental rights of the  
26 incarcerated parent is in the best interest of the child.

27           (c) The only conduct of a father toward a mother  
28 during pregnancy that the court may consider in determining  
29 whether the child has been abandoned is conduct that occurred  
30 after the father was informed he may be the father of the  
31 child or after diligent search and notice as provided in s.

1 63.088 have been made to inform the father that he is, or may  
2 be, the father of the child.

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

23 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING  
24 ADOPTION.--

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

28 (b) Within 24 hours after filing, the clerk of the  
29 court shall mail a copy of the judgment to the department, the  
30 petitioner, those persons required to give consent under s.  
31



1 63.062, and the respondent. The clerk shall execute a  
2 certificate of each mailing.

3 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL  
4 RIGHTS.--

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

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

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

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

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

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

18 Section 18. Section 63.092, Florida Statutes, is  
19 amended to read:

20 63.092 Report to the court of intended placement by an  
21 adoption entity; at-risk placement intermediary; preliminary  
22 study.--

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

30 (2) AT-RISK PLACEMENT.--If the minor is placed in the  
31 prospective adoptive home before the parental rights of the

1 minor's parents are terminated under s. 63.089, the placement  
2 is an at-risk placement. If the placement is an at-risk  
3 placement, the prospective adoptive parents must acknowledge  
4 in writing before the minor may be placed in the prospective  
5 adoptive home that the placement is at risk and that the minor  
6 is subject to removal from the prospective adoptive home by  
7 the adoption entity or by court order.

8 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the  
9 minor in the intended adoptive home, a preliminary home study  
10 must be performed by a licensed child-placing agency, a  
11 licensed professional, or agency described in s. 61.20(2),  
12 unless the petitioner is a stepparent, a spouse of the ~~birth~~  
13 parent, or a relative. The preliminary study shall be  
14 completed within 30 days after the receipt by the court of the  
15 adoption entity's intermediary's report, but in no event may  
16 the minor child be placed in the prospective adoptive home  
17 prior to the completion of the preliminary study unless  
18 ordered by the court. If the petitioner is a stepparent, a  
19 spouse of the ~~birth~~ parent, or a relative, the preliminary  
20 home study may be required by the court for good cause shown.  
21 The department is required to perform the preliminary home  
22 study only if there is no licensed child-placing agency,  
23 licensed professional, or agency described in s. 61.20(2), in  
24 the county where the prospective adoptive parents reside. The  
25 preliminary home study must be made to determine the  
26 suitability of the intended adoptive parents and may be  
27 completed prior to identification of a prospective adoptive  
28 minor child. A favorable preliminary home study is valid for  
29 1 year after the date of its completion. A minor may child  
30 ~~must~~ not be placed in an intended adoptive home before a  
31 favorable preliminary home study is completed unless the

1 adoptive home is also a licensed foster home under s. 409.175.

2 The preliminary home study must include, at a minimum:

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

4 (b) Records checks of the department's central abuse  
5 registry and criminal records correspondence checks pursuant  
6 to s. 435.045 through the Department of Law Enforcement on the  
7 intended adoptive parents;

8 (c) An assessment of the physical environment of the  
9 home;

10 (d) A determination of the financial security of the  
11 intended adoptive parents;

12 (e) Documentation of counseling and education of the  
13 intended adoptive parents on adoptive parenting;

14 (f) Documentation that information on adoption and the  
15 adoption process has been provided to the intended adoptive  
16 parents;

17 (g) Documentation that information on support services  
18 available in the community has been provided to the intended  
19 adoptive parents; and

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

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

24

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

27 A minor may not be placed in the home if the preliminary home  
28 study is unfavorable. If the preliminary home study is

29 unfavorable, the adoption entity intermediary or petitioner  
30 may, within 20 days after receipt of a copy of the written

31 recommendation, petition the court to determine the

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

7 Section 19. Section 63.097, Florida Statutes, is  
8 amended to read:

9 63.097 Fees.--

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

13 (a) Foster care expenses;

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

15 and

16 (c) Agency facility and administrative costs.

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

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

25 Reasonable living expenses are rent, utilities, basic  
26 telephone service, food, necessary clothing, transportation,  
27 and expenses found by the court to be necessary for the health  
28 of the unborn child.

29 (b) Reasonable and necessary medical expenses.

30 (c) Expenses necessary to comply with the requirements  
31 of this chapter, including, but not limited to, service of

1 process under s. 63.088, a diligent search under s. 63.088, a  
2 preliminary home study under s. 63.092, and a final home  
3 investigation under s. 63.125.

4 (d) Court filing expenses, court costs, and other  
5 litigation expenses.

6 (e) Costs associated with advertising under s.  
7 63.212(1)(g).

8 (f) The following professional fees:

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

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

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

30  
31

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

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

5           (b) \$500 in court costs;

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

7           (d) \$1,500 cumulative expenses that are related to the  
8 minor, the pregnancy, a parent, or adoption proceeding, which  
9 expenses are incurred prior to the date the prospective  
10 adoptive parent retains the adoption entity.

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

15           (5) The following fees, costs, and expenses are  
16 prohibited:

17           (a) Any fee or expense that constitutes payment for  
18 locating a minor for adoption.

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

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

29           ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~  
30 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~  
31 ~~\$2,500, paid to an intermediary other than actual, documented~~

1 ~~medical costs, court costs, and hospital costs must be~~  
2 ~~approved by the court prior to assessment of the fee by the~~  
3 ~~intermediary and upon a showing of justification for the~~  
4 ~~larger fee.~~

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

18 Section 20. Section 63.102, Florida Statutes, is  
19 amended to read:

20 63.102 Filing of petition for adoption or declaratory  
21 statement; venue; proceeding for approval of fees and costs.--

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



1 be known if the petition is granted. ~~If the child is placed~~  
2 ~~for adoption by an agency,~~Any name by which the minor child  
3 was previously known may ~~shall~~ not be disclosed in the  
4 petition, the notice of hearing, or the judgment of adoption.

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

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

27 (4) If the filing of the petition for adoption or for  
28 a declaratory statement as to the adoption contract in the  
29 county where the petitioner or minor child resides would tend  
30 to endanger the privacy of the petitioner or minor child, the  
31 petition for adoption may be filed in a different county,

1 provided the substantive rights of any person will not thereby  
2 be affected.

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

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

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

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

31

1 subsequently found by the court to be greater than fees,  
2 costs, and expenses actually incurred.

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

7 (e) A petition for adoption filed under this section  
8 may be consolidated with a previously filed petition for a  
9 declaratory statement. Only one filing fee may be assessed for  
10 both the adoption and declaratory-statement petitions.

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

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

18 63.112 Petition for adoption; description; report or  
19 recommendation, exceptions; mailing.--

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

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

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

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

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

31

1           (e) The marital status of the petitioner, including  
2 the date and place of marriage, if married, and divorces, if  
3 any;

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

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

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

15           (i) The reasons why the petitioner desires to adopt  
16 the person.

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

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

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

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

29           1. ~~The birth mother, if parental rights have not been~~  
30 ~~terminated;~~

31

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

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

6 63.062(1)(f)~~63.062(1)(c)~~.

7  
8 ~~The court may waive the requirement for an interview with the~~  
9 ~~birth mother or birth father in the investigation for good~~  
10 ~~cause shown.~~

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

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

19           Section 22. Section 63.122, Florida Statutes, is  
20 amended to read:

21           63.122 Notice of hearing on petition.--

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

31

1 the petitioner is a spouse of the birth parent, the hearing  
2 may be held immediately after the filing of the petition.

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

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

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

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

16 ~~(b) The intermediary.~~

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

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

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

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

29 63.125 Final home investigation.--

30 (1) The final home investigation must be conducted  
31 before the adoption becomes final. The investigation may be

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

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

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

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

29 (5) The final home investigation must include:

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

31

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

6 (c) The family social and medical history as provided  
7 in s. 63.082.

8 (d) Any other information relevant to the suitability  
9 of the intended adoptive home.

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

12 Section 24. Section 63.132, Florida Statutes, is  
13 amended to read:

14 63.132 Affidavit Report of expenses ~~expenditures~~ and  
15 receipts.--

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

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

24 (b) The affidavit must itemize ~~containing a full~~  
25 ~~accounting of~~ all disbursements and receipts of anything of  
26 value, including professional and legal fees, made or agreed  
27 to be made by or on behalf of the prospective adoptive parent  
28 petitioner and any adoption entity intermediary in connection  
29 with the adoption ~~or~~ in connection with any prior proceeding  
30 to terminate parental rights which involved the minor who is  
31 the subject of the petition for adoption. The affidavit must



1 also include, for each fee itemized, the service provided for  
2 which the fee is being charged, the date the service was  
3 provided, the time required to provide the service, the person  
4 or entity that provided the service, and the hourly fee  
5 charged.

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

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

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

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

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

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

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

22  
23 The affidavit must state whether any of these expenses were  
24 paid for by collateral sources, including, but not limited to,  
25 health insurance, Medicaid, Medicare, or public assistance.

26 (2) The court may require such additional information  
27 as is deemed necessary.

28 (3) The court must issue a separate order approving or  
29 disapproving the fees, costs, and expenses itemized in the  
30 affidavit. The court may approve only fees, costs, and  
31 expenditures allowed under s. 63.097. The court may reject in

1 whole or in part any fee, cost, or expenditure listed if the  
2 court finds that the expense is:

3 (a) Contrary to this chapter;

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

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

9 (4)(3) This section does not apply to an adoption by a  
10 stepparent whose spouse is a ~~natural or adoptive~~ parent of the  
11 minor child.

12 Section 25. Section 63.142, Florida Statutes, is  
13 amended to read:

14 63.142 Hearing; judgment of adoption.--

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

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

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

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

25 (3) DISMISSAL.--

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

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

30 (4) JUDGMENT.--At the conclusion of the hearing, after  
31 ~~when~~ the court determines that the date for a parent to file

1 an appeal of a valid judgment terminating that parent's  
2 parental rights has passed and no appeal, pursuant to the  
3 Florida Rules of Appellate Procedure, is pending ~~all necessary~~  
4 ~~consents have been obtained~~ and that the adoption is in the  
5 best interest of the person to be adopted, a judgment of  
6 adoption shall be entered.

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

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

30 (c) At the preliminary hearing, the court, upon the  
31 motion of any party or its own motion, may order scientific

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

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

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

17 63.162 Hearings and records in adoption proceedings;  
18 confidential nature.--

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

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

16 Section 27. Section 63.165, Florida Statutes, is  
17 amended to read:

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

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

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

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

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

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

5 Section 28. Section 63.182, Florida Statutes, is  
6 amended to read:

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

9 63.182 Statute of repose.--Notwithstanding s. 95.031  
10 or s. 95.11 or any other statute:

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

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

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

24 63.202 Authority to license; adoption of rules.--

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

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

30 63.207 Out-of-state placement.--

31

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

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

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

29           (2) An adoption entity intermediary may not counsel a  
30 birth mother to leave the state for the purpose of giving  
31 birth to a child outside the state in order to secure a fee in



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

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

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

9 63.212 Prohibited acts; penalties for violation;  
10 preplanned adoption agreement.--

11 (1) It is unlawful for any person:

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

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

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

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

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

30 (d)(e) Having the rights and duties of a parent with  
31 respect to the care and custody of a minor to assign or

1 transfer such parental rights for the purpose of, incidental  
2 to, or otherwise connected with, selling or offering to sell  
3 such rights and duties.

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

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

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

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

1 Each petition for adoption which is filed in connection with a  
2 preplanned adoption agreement must clearly identify the  
3 adoption as a preplanned adoption arrangement and must include  
4 a copy of the preplanned adoption agreement for review by the  
5 court.

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

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

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

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

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

29 b. That the volunteer mother agrees to submit to  
30 reasonable medical evaluation and treatment and to adhere to  
31 reasonable medical instructions about her prenatal health.

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

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

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

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

30           g. That the intended father and intended mother agree  
31 to accept custody of and to assert full parental rights and

1 responsibilities for the child immediately upon the child's  
2 birth, regardless of any impairment to the child.

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

7 i. That the agreement may be terminated at any time by  
8 any of the parties.

9 3. A preplanned adoption agreement shall not contain  
10 any provision:

11 a. To reduce any amount paid to the volunteer mother  
12 if the child is stillborn or is born alive but impaired, or to  
13 provide for the payment of a supplement or bonus for any  
14 reason.

15 b. Requiring the termination of the volunteer mother's  
16 pregnancy.

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

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

- 1           6. As used in this paragraph, the term:
- 2           a. "Blood and tissue typing tests" include, but are  
3 not limited to, tests of red cell antigens, red cell  
4 isoenzymes, human leukocyte antigens, and serum proteins.
- 5           b. "Child" means the child or children conceived by  
6 means of an insemination that is part of a preplanned adoption  
7 arrangement.
- 8           c. "Fertility technique" means artificial  
9 embryonation, artificial insemination, whether in vivo or in  
10 vitro, egg donation, or embryo adoption.
- 11           d. "Intended father" means a male who, as evidenced by  
12 a preplanned adoption agreement, intends to have the parental  
13 rights and responsibilities for a child conceived through a  
14 fertility technique, regardless of whether the child is  
15 biologically related to the male.
- 16           e. "Intended mother" means a female who, as evidenced  
17 by a preplanned adoption agreement, intends to have the  
18 parental rights and responsibilities for a child conceived  
19 through a fertility technique, regardless of whether the child  
20 is biologically related to the female.
- 21           f. "Parties" means the intended father and intended  
22 mother, the volunteer mother and her husband, if she has a  
23 husband, who are all parties to the preplanned adoption  
24 agreement.
- 25           g. "Preplanned adoption agreement" means a written  
26 agreement among the parties that specifies the intent of the  
27 parties as to their rights and responsibilities in the  
28 preplanned adoption arrangement, consistent with the  
29 provisions of this act.
- 30           h. "Preplanned adoption arrangement" means the  
31 arrangement through which the parties enter into an agreement

1 for the volunteer mother to bear the child, for payment by the  
2 intended father and intended mother of the expenses allowed by  
3 this act, for the intended father and intended mother to  
4 assert full parental rights and responsibilities to the child  
5 if consent to adoption is not rescinded after birth by the  
6 volunteer mother, and for the volunteer mother to terminate,  
7 subject to a right of rescission, in favor of the intended  
8 father and intended mother all her parental rights and  
9 responsibilities to the child.

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

16 (2)(a) It is unlawful for any person under this  
17 chapter to:

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

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

28 (c) Any person who willfully violates any provision of  
29 this subsection commits a misdemeanor of the second degree,  
30 punishable as provided in s. 775.082 or s. 775.083. In  
31 addition, such person is liable for damages caused by such



1 acts or omissions, including reasonable attorney's fees and  
2 costs. Damages may be awarded through restitution in any  
3 related criminal prosecution or by filing a separate civil  
4 action.

5 ~~(3)(2)~~ This section does not ~~Nothing herein shall be~~  
6 ~~construed to prohibit~~ an adoption entity a licensed  
7 ~~child-placing agency~~ from charging fees permitted under this  
8 chapter and reasonably commensurate to the services provided.

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

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

23 ~~(6)(5)~~ It is unlawful for any adoption entity  
24 ~~intermediary~~ to counsel a birth mother to leave the state for  
25 the purpose of giving birth to a child outside the state in  
26 order to secure a fee in excess of that permitted under s.  
27 63.097 when it is the intention that the child be placed for  
28 adoption outside the state.

29 ~~(7)(6)~~ It is unlawful for any adoption entity  
30 ~~intermediary~~ to obtain a preliminary home study or final home  
31

1 investigation and fail to disclose the existence of the study  
2 or investigation to the court.

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

11 Section 32. Section 63.219, Florida Statutes, is  
12 amended to read:

13 63.219 Sanctions.--Upon a finding by the court that an  
14 adoption entity intermediary or agency has violated any  
15 provision of this chapter, the court is authorized to prohibit  
16 the adoption entity intermediary or agency from placing a  
17 minor for adoption in the future.

18 Section 33. Subsection (41) of section 984.03, Florida  
19 Statutes, is amended to read:

20 984.03 Definitions.--When used in this chapter, the  
21 term:

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

31

1           Section 34. Subsection (43) of section 985.03, Florida  
2 Statutes, is amended to read:

3           985.03 Definitions.--When used in this chapter, the  
4 term:

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

14           Section 35. Section 63.072, Florida Statutes, is  
15 repealed.

16           Section 36. Any petition for adoption filed before  
17 October 1, 2000, shall be governed by the law in effect at the  
18 time the petition was filed.

19           Section 37. If any provision of this act or the  
20 application thereof to any person or circumstance is held  
21 invalid, the invalidity does not affect other provisions or  
22 applications of the act which can be given effect without the  
23 invalid provision or application, and to this end the  
24 provisions of this act are declared severable.

25           Section 38. This act shall take effect October 1,  
26 2000.

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- 1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 346
- 4 -       Corrects outdated references to the 1998 Supplement of  
5       the Florida Statute and to the year 1999.
- 6 -       Defines the term "foster care" by reference to the term  
7       as defined in ch. 39, relating to dependency  
8       proceedings, in order to clarify which facilities are  
9       appropriate for placing a child pending final placement  
10       and adoption.
- 11 -       Deletes the unnecessary term of "licensed" in order to  
12       be consistent with the definition of foster care as  
13       defined in ch. 39.
- 14 -       Clarifies the title of a petition to terminate parental  
15       rights in order to avoid confusion with the title for a  
16       petition for a declaratory statement regarding approval  
17       of an adoption contract.
- 18 -       Clarifies that the statute of repose periods in the bill  
19       override any statute of limitations or statute of repose  
20       periods contained elsewhere in the statutes governing  
21       the time for bringing claims based on fraud.
- 22 -       Requires that a petition to terminate parental rights,  
23       which is the first step in the overall adoption process,  
24       include a certification of compliance with the  
25       grandparent notification statute.
- 26 -       Clarifies that the conditions under which a child whose  
27       parent is incarcerated is considered to be abandoned,  
28       can independently result in a determination of  
29       abandonment, instead of requiring all three conditions  
30       to be present.
- 31 -       Eliminates the modification to the membership of the  
32       Advisory Council on Adoption. This council has not been  
33       in operation for over 7 years.
- 34 -       Removes and corrects a modification that was being made  
35       to the definition of "participant" in ch. 39, which  
36       would provide a reference to when grandparents are  
37       required to be notified of various proceedings that is  
38       inconsistent with the intent of other provisions in the  
39       bill.