

By Representative Argenio

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

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

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

1 voidable; providing for an evidentiary hearing
2 to determine the minor's placement following a
3 motion to void such a judgment; amending s.
4 63.162, F.S.; conforming provisions relating to
5 confidential records of adoption proceedings;
6 amending s. 63.165, F.S.; requiring that a copy
7 of the certified statement of final decree of
8 adoption be included in the state registry of
9 adoption information; amending s. 63.182, F.S.;
10 providing a 1-year statute of repose for
11 actions to set aside or vacate a judgment of
12 adoption or a judgment terminating parental
13 rights pending adoption; providing a 2-year
14 statute of repose for an action in fraud to set
15 aside or vacate a judgment of adoption or a
16 judgment terminating parenting rights; amending
17 s. 63.202, F.S.; conforming provisions relating
18 to agencies authorized to place minors for
19 adoption; amending s. 63.207, F.S.; revising
20 provisions that limit the placement of a minor
21 in another state for adoption; amending s.
22 63.212, F.S.; revising provisions relating to
23 prohibitions and penalties with respect to
24 adoptions; amending s. 63.219, F.S.; conforming
25 provisions relating to sanctions; amending s.
26 63.301, F.S.; revising membership of an
27 advisory council on adoption to include a
28 child-caring agency registered under s.
29 409.176, F.S.; amending ss. 39.01, 984.03, and
30 985.03, F.S.; correcting cross references;
31 repealing s. 63.072, F.S., relating to persons

1 who may waive required consent to an adoption;
2 requiring that a petition for adoption be
3 governed by the law in effect at the time the
4 petition is filed; providing for severability;
5 providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 39.703, Florida Statutes, is
10 amended to read:

11 39.703 Initiation of termination of parental rights
12 proceedings; judicial review.--

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

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

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

28 39.802 Petition for termination of parental rights;
29 filing; elements.--

30 (1) All proceedings seeking an adjudication to
31 terminate parental rights pursuant to this chapter must be

1 initiated by the filing of an original petition by the
2 department, the guardian ad litem, ~~a licensed child-placing~~
3 ~~agency~~, or any other person who has knowledge of the facts
4 alleged or is informed of them and believes that they are
5 true.

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

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

13 39.806 Grounds for termination of parental rights.--

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

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

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

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

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. Subsection (8) of section 39.811, Florida
25 Statutes, is amended to read:

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

27 (8) If the court terminates parental rights, it shall,
28 in its order of disposition, provide for a hearing, to be
29 scheduled no later than 30 days after the date of disposition,
30 in which the department ~~or the licensed child-placing agency~~
31 shall provide to the court an amended case plan which

1 identifies the permanency goal for the child. Reasonable
2 efforts must be made to place the child in a timely manner in
3 accordance with the permanency plan and to complete whatever
4 steps are necessary to finalize the permanent placement of the
5 child. Thereafter, until the adoption of the child is
6 finalized or the child reaches the age of 18 years, whichever
7 occurs first, the court shall hold hearings at 6-month
8 intervals to review the progress being made toward permanency
9 for the child.

10 Section 5. Section 39.812, Florida Statutes, is
11 amended to read:

12 39.812 Postdisposition relief; petition for
13 adoption--

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

25 (2) In any subsequent adoption proceeding, the parents
26 are ~~shall not be~~ entitled to any notice of the proceeding and
27 are not ~~thereof, nor shall they be~~ entitled to knowledge at
28 any time after the order terminating parental rights is
29 entered of the whereabouts of the child or of the identity or
30 location of any person having the custody of or having adopted
31 the child, except as provided by order of the court pursuant

1 to this chapter or chapter 63.~~7~~ and In any habeas corpus or
2 other proceeding involving the child brought by any parent of
3 the child, an ~~no~~ agent or contract provider of the ~~licensed~~
4 ~~child-placing agency or department~~ may not ~~shall~~ be compelled
5 to divulge that information, but may be compelled to produce
6 the child before a court of competent jurisdiction if the
7 child is still subject to the guardianship of the ~~licensed~~
8 ~~child-placing agency or department~~.

9 (3) The entry of the custody order to the department
10 does ~~or licensed child-placing agency shall~~ not entitle the
11 ~~licensed child-placing agency or department~~ to guardianship of
12 the estate or property of the child, but the ~~licensed~~
13 ~~child-placing agency or department~~ shall be the guardian of
14 the person of the child.

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

26 (5) The petition for adoption must be filed in the
27 division of the circuit court which entered the judgment
28 terminating parental rights, unless a motion for change of
29 venue is granted pursuant to s. 47.122. A copy of the consent
30 executed by the department as required under s. 63.062(7) must
31 be attached to the petition. The petition must be accompanied

1 by a form provided by the department which details the social
2 and medical history of the child and each parent and includes
3 the social security number and date of birth for each parent,
4 if such information is available or readily obtainable. The
5 person seeking to adopt the child may not file a petition for
6 adoption until the judgment terminating parental rights
7 becomes final. An adoption proceeding under this subsection is
8 governed by chapter 63, as limited under s. 63.037.

9 Section 6. Section 63.022, Florida Statutes, is
10 amended to read:

11 63.022 Legislative intent.--

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

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

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

20 (b) The required persons consent to the adoption or
21 the parent-child relationship is terminated by judgment of the
22 court.

23 (c) The required social studies are completed and the
24 court considers the reports of these studies prior to judgment
25 on adoption petitions.

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

28 (e) A sufficient period of time elapses during which
29 the minor ~~child~~ has lived within the proposed adoptive home
30 under the guidance of the department or a child-caring agency
31 registered under s. 409.176 ~~a licensed child-placing agency.~~

1 (f) All expenditures by adoption entities
2 ~~intermediaries~~ placing, and persons independently adopting, a
3 minor are reported to the court and become a permanent record
4 in the file of the adoption proceedings.

5 (g) Social and medical information concerning the
6 minor child and the birth parents is furnished by the birth
7 parent when available and filed with the court before a final
8 hearing on a petition to terminate parental rights pending
9 adoption consent to the adoption when a minor is placed by an
10 intermediary.

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

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

16 (j) The records of all proceedings concerning custody
17 and adoption of a minor children are confidential and exempt
18 from ~~the provisions of~~ s. 119.07(1), except as provided in s.
19 63.162.

20 (k) The birth parent, the prospective adoptive parent,
21 and the minor child receive the same or similar safeguards,
22 guidance, counseling, and supervision in all adoptions ~~an~~
23 ~~intermediary adoption as they receive in an agency or~~
24 ~~department adoption~~.

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

29 (m) In dependency cases initiated by the department,
30 where termination of parental rights occurs, and siblings are
31 separated despite diligent efforts of the department,

1 continuing postadoption communication or contact among the
2 siblings may be ordered by the court if found to be in the
3 best interests of the children.

4 Section 7. Section 63.032, Florida Statutes, is
5 amended to read:

6 63.032 Definitions.--As used in this chapter act,
7 ~~unless the context otherwise requires,~~the term:

8 (1)~~(14)~~ "Abandoned" means a situation in which the
9 parent or person having legal custody ~~legal custodian~~ of a
10 child, while being able, makes no provision for the child's
11 support and makes no effort to communicate with the child,
12 which situation is sufficient to evince a willful rejection of
13 parental obligations. If, in the opinion of the court, the
14 efforts of such parent or person having legal custody of the
15 child ~~legal custodian~~ to support and communicate with the
16 child are only marginal efforts that do not evince a settled
17 purpose to assume all parental duties, the court may declare
18 the child to be abandoned. In making this decision, the court
19 may consider the conduct of a father towards the child's
20 mother during her pregnancy.

21 (2)~~(10)~~ "Adoption" means the act of creating the legal
22 relationship between parent and child where it did not exist,
23 thereby declaring the child to be legally the child of the
24 adoptive parents and their heir at law and entitled to all the
25 rights and privileges and subject to all the obligations of a
26 child born to such adoptive parents in lawful wedlock.

27 (3) "Adoption entity" means the department, an agency,
28 a child-caring agency registered under s. 409.176, or an
29 intermediary.

30 (4)~~(5)~~ "Adult" means a person who is not a minor.
31

1 ~~(5)(7)~~ "Agency" means any child-placing agency
2 licensed by the department pursuant to s. 63.202 to place
3 minors for adoption.

4 ~~(6)(2)~~ "Child" means a son or daughter, whether by
5 birth or adoption.

6 ~~(7)(3)~~ "Court" means any circuit court of this state
7 and, when the context requires, the court of any state that is
8 empowered to grant petitions for adoption.

9 ~~(8)(1)~~ "Department" means the Department of Children
10 and Family Services.

11 ~~(9)(8)~~ "Intermediary" means an attorney ~~or physician~~
12 who is licensed or authorized to practice in this state and
13 who is placing or intends to place a child for adoption or,
14 for the purpose of adoptive placements of children from out of
15 state with citizens of this state, a child-placing agency
16 licensed in another state that is qualified by the department.

17 (10) "Legal custody" has the meaning ascribed in s.
18 39.01.

19 ~~(11)(4)~~ "Minor" means a person under the age of 18
20 years.

21 (12) "Parent" has the same meaning ascribed in s.
22 39.01.

23 ~~(13)(6)~~ "Person" includes a natural person,
24 corporation, government or governmental subdivision or agency,
25 business trust, estate, trust, partnership, or association,
26 and any other legal entity.

27 (14) "Relative" has the same meaning ascribed in s.
28 39.01.

29 ~~(15)(9)~~ "To place" or "placement" means the process of
30 a person giving a child up for adoption and the prospective
31 parents receiving and adopting the child, and includes all

1 actions by any person or adoption entity ~~agency~~ participating
2 in the process.

3 ~~(16)(13)~~ "Primarily lives and works outside Florida"
4 means anyone who does not meet the definition of "primary
5 residence and place of employment in Florida."

6 ~~(17)(12)~~ "Primary residence and place of employment in
7 Florida" means a person lives and works in this state at least
8 6 months of the year and intends to do so for the foreseeable
9 future or military personnel who designate Florida as their
10 place of residence in accordance with the Soldiers' and
11 Sailors' Civil Relief Act of 1940 or employees of the United
12 States Department of State living in a foreign country who
13 designate Florida as their place of residence.

14 ~~(18)(11)~~ "Suitability of the intended placement"
15 includes the fitness of the intended placement, with primary
16 consideration being given to the welfare of the child; the
17 fitness and capabilities of the adoptive parent or parents to
18 function as parent or parents for a particular child; any
19 familial relationship between the child and the prospective
20 placement;and the compatibility of the child with the home in
21 which the child is intended to be placed.

22 Section 8. Section 63.037, Florida Statutes, is
23 created to read:

24 63.037 Proceedings applicable to cases resulting from
25 a termination of parental rights under chapter 39.--A case in
26 which a minor becomes available for adoption after the
27 parental rights of each parent have been terminated by a
28 judgment entered pursuant to chapter 39 shall be governed by
29 s. 39.812 and this chapter. Adoption proceedings initiated
30 under chapter 39 are exempt from the following provisions of
31 this chapter: disclosure requirements for the adoption entity

1 provided in s. 63.085; general provisions governing
2 termination of parental rights pending adoption provided in s.
3 63.087; notice and service provisions governing termination of
4 parental rights pending adoption provided in s. 63.088; and
5 procedures for terminating parental rights pending adoption
6 provided in s. 63.089.

7 Section 9. Section 63.039, Florida Statutes, is
8 created to read:

9 63.039 Duty of adoption entity to prospective adoptive
10 parents; sanctions.--

11 (1) An adoption entity placing a minor for adoption
12 has an affirmative duty to follow the requirements of this
13 chapter; specifically, the following provisions, which protect
14 and promote the well-being of persons being adopted and their
15 parents and prospective adoptive parents by promoting
16 certainty, finality, and permanency for such persons. The
17 adoption entity must:

18 (a) Provide written initial disclosure to the
19 prospective adoptive parent at the time and in the manner
20 required under s. 63.085.

21 (b) Provide written initial and postbirth disclosure
22 to the parent at the time and in the manner required under s.
23 63.085.

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

27 (d) When a written consent or affidavit of
28 nonpaternity for adoption is obtained, obtain a consent to
29 adoption or affidavit of nonpaternity that contains the
30 language required under s. 63.062 or s. 63.082.

31

1 (e) Include in the petition to terminate parental
2 rights pending adoption all information required under s.
3 63.087(6)(e) and (f).

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

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

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

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

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

26 (3) If a court finds that a consent or an affidavit of
27 nonpaternity taken under this chapter was obtained by fraud or
28 duress attributable to the adoption entity, the court must
29 award all sums paid by the prospective adoptive parents or on
30 their behalf in anticipation of or in connection with the
31 adoption. The court may also award reasonable attorney's fees

1 and costs incurred by the prospective adoptive parents in
2 connection with the adoption and any litigation related to
3 placement or adoption of a minor. An award under this
4 subsection must be paid directly to the prospective adoptive
5 parents by the adoption entity or by any applicable insurance
6 carrier on behalf of the adoption entity.

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

17 (5) The court must provide to The Florida Bar any
18 order that imposes sanctions under this section against an
19 attorney acting as an adoption agency or as an intermediary.
20 The court must provide to the Department of Children and
21 Family Services any order that imposes sanctions under this
22 section against an agency. The order must be provided within
23 30 days after the date that the order was issued.

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

26 63.0425 Grandparent's right to adopt.--

27 (1) When a child who has lived with a grandparent for
28 at least 6 months is placed for adoption, the adoption entity
29 ~~agency or intermediary~~ handling the adoption shall notify that
30 grandparent of the impending adoption before the petition for
31 adoption is filed. If the grandparent petitions the court to

1 adopt the child, the court shall give first priority for
2 adoption to that grandparent.

3 Section 11. Section 63.052, Florida Statutes, is
4 amended to read:

5 63.052 Guardians designated; proof of commitment.--

6 (1) For minors who have been placed for adoption with
7 and permanently committed to an agency as defined in s. 63.032
8 or a child-caring agency registered under s. 409.176, such the
9 agency shall be the guardian of the person of the minor child;
10 for those who have been placed for adoption with and
11 permanently committed to the department, the department shall
12 be the guardian of the person of the minor child.

13 (2) For minors who have been voluntarily surrendered
14 to an intermediary through an execution of consent to
15 adoption, the intermediary shall be responsible for the minor
16 child until the time a court orders preliminary approval of
17 placement of the minor child in the prospective adoptive home,
18 at which time the prospective adoptive parents become
19 guardians pending finalization of adoption. Until a court has
20 terminated parental rights pending adoption and has ordered
21 preliminary approval of placement of the minor in the adoptive
22 home, the minor must be placed in the care of a relative as
23 defined in s. 39.01, in foster care, or in the care of a
24 prospective adoptive home. No minor shall be placed in a
25 prospective adoptive home until that home has received a
26 favorable preliminary home study by a licensed child-placing
27 agency, a licensed professional, or an agency, as provided in
28 s. 63.092, within 1 year before such placement in the
29 prospective home. Temporary placement in the prospective home
30 with the prospective adoptive parents does not give rise to a
31

1 presumption that the parental rights of the parents will
2 subsequently be terminated.

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

19 (3) If a minor is surrendered to an intermediary for
20 subsequent adoption and a suitable prospective adoptive home
21 is not available pursuant to s. 63.092 at the time the minor
22 is surrendered to the intermediary or, if the minor is a
23 newborn admitted to a licensed hospital or birth center, at
24 the time the minor is discharged from the hospital or birth
25 center, the minor must be placed in licensed foster care, the
26 ~~intermediary shall be responsible for the child until such a~~
27 suitable prospective adoptive home is available.

28 (4) If a minor ~~child~~ is voluntarily surrendered to an
29 adoption entity ~~intermediary~~ for subsequent adoption and the
30 adoption does not become final within 180 days, the adoption
31 entity ~~intermediary~~ must report to the court on the status of

1 the minor ~~child~~ and the court may at that time proceed under
2 s. 39.701 or take action reasonably necessary to protect the
3 best interest of the minor ~~child~~.

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

14 (6) Unless otherwise authorized by law, the department
15 is not responsible for expenses incurred by other adoption
16 ~~entities licensed child-placing agencies or intermediaries~~
17 participating in placement of a minor ~~child~~ for the purposes
18 of adoption.

19 (7) The court retains jurisdiction of a minor who has
20 been placed for adoption until the adoption is final. After a
21 minor is placed with an adoption entity or prospective
22 adoptive parent, the court may review the status of the minor
23 and the progress toward permanent adoptive placement. As part
24 of this continuing jurisdiction, for good cause shown by a
25 person whose consent to an adoption is required under s.
26 63.062, the adoption entity, the parents, persons having legal
27 custody of the minor, persons with custodial or visitation
28 rights to the minor, persons entitled to notice pursuant to
29 the Uniform Child Custody Jurisdiction Act or the Indian Child
30 Welfare Act, or upon the court's own motion, the court may
31

1 review the appropriateness of the adoptive placement of the
2 minor.

3 Section 12. Section 63.062, Florida Statutes, is
4 amended to read:

5 63.062 Persons required to consent to adoption;
6 affidavit of nonpaternity; waiver of venue.--

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

13 (a) The mother of the minor.

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

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

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

18 3. The minor has been established by court proceeding
19 to be his child.

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

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

27 1.4. ~~He~~ Has acknowledged in writing, signed in the
28 presence of a competent witness, that he is the father of the
29 minor and has filed such acknowledgment with the Office of
30 Vital Statistics of the Department of Health;~~;~~

31

1 ~~2.5. He~~ Has provided, or has attempted to provide, the
2 child or the mother during her pregnancy with support in a
3 repetitive, customary manner; or-

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

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

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

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

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

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

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AFFIDAVIT OF NONPATERNITY

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

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

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

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

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

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

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

7
8 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
9 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
10 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

11
12 ~~(5)(2)~~ The court may require that consent be executed
13 by:

14 (a) Any person lawfully entitled to custody of the
15 minor; or

16 (b) The court having jurisdiction to determine custody
17 of the minor, if the person having physical custody of the
18 minor has no authority to consent to the adoption.

19 ~~(6)(3)~~ The petitioner must make good faith and
20 diligent efforts as provided under s. 63.088 to notify, and
21 obtain written consent from, the persons required to consent
22 to adoption under this section ~~within 60 days after filing the~~
23 ~~petition. These efforts may include conducting interviews and~~
24 ~~record searches to locate those persons, including verifying~~
25 ~~information related to location of residence, employment,~~
26 ~~service in the Armed Forces, vehicle registration in this~~
27 ~~state, and corrections records.~~

28 ~~(7)(4)~~ If parental rights to the minor have previously
29 been terminated, a licensed child-placing agency, a
30 child-caring agency registered under s. 409.176, or the
31 department with which the minor child has been placed for

1 subsequent adoption may provide consent to the adoption. In
2 such case, no other consent is required.

3 ~~(8)(5)~~ A petition to adopt an adult may be granted if:

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

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

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

18
19 WAIVER OF VENUE

20
21 I understand that I have the right to require
22 that the Petition to terminate my parental
23 rights be filed in the county where I reside. I
24 waive such right so that the Petition to
25 Terminate Parental Rights may be filed by
26 ...(adoption entity)... in ...(county name)...
27 county, Florida.

28
29 I understand that, after signing this waiver, I
30 may object to the county where the proceedings
31 to terminate my parental rights will be held by

1 appearing at the hearing or by filing a written
2 objection, on the attached form, with the Clerk
3 of the Court who is located at ...(address of
4 court).... If I later object to this transfer
5 of venue, the case will be transferred to a
6 county in Florida in which I reside. If I have
7 no such residence, the case will be transferred
8 to a county where another parent resides or
9 where at least one parent resided at the time
10 of signing a consent or affidavit of
11 nonpaternity.

12
13 (b)1. The waiver of venue must be a separate document
14 containing no consents, disclosures, or other information
15 unrelated to venue.

16 2. Adoption entities must attach to the waiver of
17 venue a form that the parent whose rights are to be terminated
18 may use to request a transfer of venue for the proceeding.
19 This form must contain the intended caption of the action for
20 termination of parental rights and information identifying the
21 child which will be sufficient for the clerk to properly file
22 the form upon receipt.

23 3. This form must include a notice that if an adoption
24 entity knows that a parent whose rights will be terminated
25 intends to object to the termination but intentionally files
26 the petition for termination of parental rights in a county
27 which is not consistent with the required venue under such
28 circumstances, the adoption entity shall be responsible for
29 the attorney's fees of the parent contesting the transfer of
30 venue.

31

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

3 63.082 Execution of consent to adoption or affidavit
4 of nonpaternity; family social and medical history; withdrawal
5 of consent.--

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

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

11 (b) If by an agency, by affidavit from its authorized
12 representative.

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

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

17 (2) A consent that does not name or otherwise identify
18 the adopting parent is valid if the consent contains a
19 statement by the person consenting that the consent was
20 voluntarily executed and that identification of the adopting
21 parent is not required for granting the consent.

22 (3)(a) The department must provide a consent form and
23 a family social and medical history form to an adoption entity
24 that intermediary who intends to place a child for adoption.
25 ~~The Forms~~ containing, at a minimum, the same information as
26 the forms promulgated by the department ~~completed by the birth~~
27 ~~parents~~ must be attached to the petition to terminate parental
28 rights pending adoption and must contain such biological and
29 sociological information, or such information as to the family
30 medical history, regarding the minor child and the ~~birth~~
31 parents, as is required by the department. The information

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

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

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

26 (4)(a) The consent to an adoption or affidavit of
27 nonpaternity shall not for voluntary surrender must be
28 executed before ~~after~~ the birth of the minor.

29 (b) A consent to the adoption of a minor who is to be
30 placed for adoption with identified prospective adoptive
31 parents under s. 63.052, upon the minor's release from a

1 licensed hospital or birth center following birth, shall not
2 be executed sooner than 48 hours after the minor's birth or
3 the day the birth mother has been notified in writing, either
4 on her patient chart or in release paperwork, that she is fit
5 to be released from a licensed hospital or birth center,
6 whichever is earlier. A consent executed under this paragraph
7 is valid upon execution and may be withdrawn only if the court
8 finds that it was obtained by fraud or under duress.

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

17 (d) The consent to adoption or the affidavit of
18 nonpaternity must be signed ~~child~~, in the presence of two
19 witnesses, and be acknowledged before a notary public who is
20 not signing as one of the witnesses. The notary public must
21 legibly note on the consent or the affidavit the date and time
22 of execution. The witnesses' names must be typed or printed
23 underneath their signatures. ~~The witnesses', and their~~ home or
24 business addresses and social security numbers, driver license
25 numbers, or state identification card numbers must be
26 included. The absence of a social security number, driver
27 license number, or state identification card number shall not
28 be deemed to invalidate the consent. The person who signs the
29 consent or the affidavit has the right to have at least one of
30 the witnesses be an individual who does not have an
31 employment, professional, or personal relationship with the

1 adoption entity or the prospective adoptive parents. The
2 adoption entity must give reasonable notice to the person
3 signing the consent or affidavit of the right to select a
4 witness of his or her own choosing. The person who signs the
5 consent or affidavit must acknowledge in writing on the
6 consent or affidavit that such notice was given and indicate
7 the witness, if any, who was selected by the person signing
8 the consent or affidavit. The adoption entity must include its
9 name, address, and telephone number on the consent to adoption
10 or affidavit of nonpaternity.

11 (e) A consent to adoption must contain, in at least
12 16-point boldfaced type, an acknowledgment of the parent's
13 rights in substantially the following form:

14
15 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
16 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
17 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
18 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
19 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
20 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
21 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
22 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
23 OR WITNESSES YOU SELECTED, IF ANY.

24
25 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
26 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
27 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

- 28
29 1. CONSULT WITH AN ATTORNEY;
30 2. HOLD, CARE FOR, AND FEED THE CHILD;

31

1 3. PLACE THE CHILD IN FOSTER CARE OR WITH
2 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
3 WILLING TO CARE FOR THE CHILD;
4 4. TAKE THE CHILD HOME UNLESS OTHERWISE
5 LEGALLY PROHIBITED; AND
6 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
7 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
8 THROUGH WITH THE ADOPTION.
9
10 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
11 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID
12 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY
13 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A
14 CHILD WHO IS TO BE PLACED FOR ADOPTION WITH
15 IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON
16 THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
17 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD
18 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT
19 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE
20 TIME OF BIRTH, OR UNTIL 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 A LICENSED HOSPITAL OR BIRTH
24 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY
25 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE
26 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
27 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
28 IT WAS OBTAINED BY FRAUD OR UNDER DURESS.
29
30 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO
31 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S

1 RELEASE FROM A LICENSED HOSPITAL OR BIRTH
2 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE
3 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
4 CHILD. WHILE THE CONSENT IS VALID AND BINDING
5 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.
6 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
7 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
8 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR
9 TO THE PLACEMENT OF THE CHILD WITH THE
10 PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT
11 WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
12 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
13 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
14 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
15 LATER.
16
17 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
18 PERIOD, YOU MUST:
19 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
20 A LETTER, THAT YOU ARE WITHDRAWING YOUR
21 CONSENT.
22 2. MAIL THE LETTER AT A UNITED STATES
23 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
24 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
25 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE
26 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
27 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
28 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
29 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.
30 3. SEND THE LETTER BY CERTIFIED UNITED
31 STATES MAIL WITH RETURN RECEIPT REQUESTED.

1 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
2 THE LETTER.

3 5. KEEP THE CERTIFIED MAIL RECEIPT AS
4 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
5 MANNER.

6

7 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
8 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
9 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,
10 IN WRITING BY CERTIFIED UNITED STATES MAIL,
11 RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY
12 YOU SHOULD NOTIFY IS: ...(name of adoption
13 entity)..., ...(address of adoption entity)...,
14 ...(phone number of adoption entity)....

15

16 ONCE THE REVOCATION PERIOD IS OVER, OR THE
17 CHILD HAS BEEN PLACED WITH THE PROSPECTIVE
18 ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU
19 MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN
20 PROVE IN COURT THAT CONSENT WAS OBTAINED BY
21 FRAUD OR UNDER DURESS.

22

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

27 (6) A copy of each consent signed in an action for
28 termination of parental rights pending adoption must be
29 provided to the person who executed the consent to adoption.
30 The copy must be hand delivered, with a written acknowledgment
31 of receipt signed by the person whose consent is required, or

1 mailed by first class United States mail to the address of
2 record in the court file. If a copy of a consent cannot be
3 provided as required in this subsection, the adoption entity
4 must execute an affidavit stating why the copy of the consent
5 is undeliverable. The original consent and acknowledgment of
6 receipt, an acknowledgment of mailing by the adoption entity,
7 or an affidavit stating why the copy of the consent is
8 undeliverable must be filed with the petition for termination
9 of parental rights pending adoption.

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

21 (b) Upon receiving written notice from a person of
22 that person's desire to withdraw consent to adoption, the
23 adoption entity must contact the prospective adoptive parent
24 to arrange a time certain for the adoption entity to regain
25 physical custody of the minor, unless, upon a motion for
26 emergency hearing by the adoption entity, the court determines
27 in written findings that placement of the minor with the
28 person withdrawing consent may endanger the minor.

29 (c) If the court finds that such placement may
30 endanger the minor, the court must enter an order regarding
31 continued placement of the minor. The order shall include, but

1 not be limited to, whether temporary placement in foster care
2 is appropriate, whether an investigation by the department is
3 recommended, and whether a relative within the third degree is
4 available for the temporary placement.

5 (d) If the person withdrawing consent claims to be the
6 father of the minor but has not been established to be the
7 father by marriage, court order, or scientific testing, the
8 court may order scientific paternity testing and reserve
9 ruling on removal of the minor until the results of such
10 testing have been filed with the court.

11 (e) The adoption entity must return the minor within 3
12 days after notification of the withdrawal of consent or after
13 the court determines that withdrawal is valid and binding upon
14 consideration of an emergency motion, as filed pursuant to
15 subsection (b), to the physical custody of the person
16 withdrawing consent.

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

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

25 Section 14. Section 63.085, Florida Statutes, is
26 amended to read:

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

29 63.085 Disclosure by adoption entity.--

30 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
31 ADOPTIVE PARENTS.--Not later than 7 days after a person

1 seeking to adopt a minor or a person seeking to place a minor
2 for adoption contacts an adoption entity in person or provides
3 the adoption entity with a mailing address, the entity must
4 provide a written disclosure statement to that person if the
5 entity agrees or continues to work with such person. If an
6 adoption entity is assisting in the effort to terminate the
7 parental rights of a parent who did not initiate the contact
8 with the adoption entity, the written disclosure must be
9 provided within 7 days after that parent is identified and
10 located. The written disclosure statement must be in
11 substantially the following form:

12
13 ADOPTION DISCLOSURE

14
15 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
16 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
17 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
18 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
19 ADOPTION UNDER FLORIDA LAW:

20
21 1. Under section 63.102, Florida
22 Statutes, the existence of a placement or
23 adoption contract signed by the parent or
24 prospective adoptive parent, prior approval of
25 that contract by the court, or payment of any
26 expenses permitted under Florida law does not
27 obligate anyone to sign a consent or ultimately
28 place a minor for adoption.

29 2. Under sections 63.092 and 63.125,
30 Florida Statutes, a favorable preliminary home
31 study, before the minor may be placed in that

1 home, and a final home investigation, before
2 the adoption becomes final, must be completed.
3 3. Under section 63.082, Florida
4 Statutes, a consent to adoption or affidavit of
5 nonpaternity may not be signed until after the
6 birth of the minor.
7 4. Under section 63.082, Florida
8 Statutes, if the minor is to be placed for
9 adoption with identified prospective adoptive
10 parents upon release from a licensed hospital
11 or birth center following birth, the consent to
12 adoption may not be signed until 48 hours after
13 birth or until the day the birth mother has
14 been notified in writing, either on her patient
15 chart or in release papers, that she is fit to
16 be released from the licensed hospital or birth
17 center, whichever is sooner. The consent to
18 adoption or affidavit of nonpaternity is valid
19 and binding upon execution unless the court
20 finds it was obtained by fraud or under duress.
21 5. Under section 63.082, Florida
22 Statutes, if the minor is not placed for
23 adoption with the prospective adoptive parent
24 upon release from the hospital or birth center
25 following birth, a 3-day revocation period
26 applies during which consent may be withdrawn
27 for any reason by notifying the adoption entity
28 in writing. In order to withdraw consent, the
29 written withdrawal of consent must be mailed at
30 a United States Post Office no later than 3
31 business days after execution of the consent or

1 1 business day after the date of the birth
2 mother's discharge from a licensed hospital or
3 birth center, whichever occurs later. For
4 purposes of mailing the withdrawal of consent,
5 the term "business day" means any day on which
6 the United States Postal Service accepts
7 certified mail for delivery. The letter must be
8 sent by certified United States mail, return
9 receipt requested. Postal costs must be paid at
10 the time of mailing and the receipt should be
11 retained as proof that consent was withdrawn in
12 a timely manner.

13 6. Under section 63.082, Florida
14 Statutes, and notwithstanding the revocation
15 period, the consent may be withdrawn at any
16 time prior to the placement of the child with
17 the prospective adoptive parent, by notifying
18 the adoption entity in writing by certified
19 United States mail, return receipt requested.

20 7. Under section 63.082, Florida
21 Statutes, if an adoption entity timely receives
22 written notice from a person of that person's
23 desire to withdraw consent, the adoption entity
24 must contact the prospective adoptive parent to
25 arrange a time certain to regain physical
26 custody of the child. Absent a court order for
27 continued placement of the child entered under
28 section 63.082, Florida Statutes, the adoption
29 entity must return the minor within 3 days
30 after notification of the withdrawal of consent
31 to the physical custody of the person

1 withdrawing consent. After the revocation
2 period for withdrawal of consent ends, or after
3 the placement of the child with prospective
4 adoptive parent, whichever occurs later, the
5 consent may be withdrawn only if the court
6 finds that the consent was obtained by fraud or
7 under duress.
8 8. Under section 63.082, Florida
9 Statutes, an affidavit of nonpaternity, once
10 executed, may be withdrawn only if the court
11 finds that it was obtained by fraud or under
12 duress.
13 9. Under section 63.082, Florida
14 Statutes, a person who signs a consent to
15 adoption or an affidavit of nonpaternity must
16 be given reasonable notice of his or her right
17 to select a person who does not have an
18 employment, professional, or personal
19 relationship with the adoption entity or the
20 prospective adoptive parents to be present when
21 the consent or affidavit is executed and to
22 sign the consent or affidavit as a witness.
23 10. Under section 63.088, Florida
24 Statutes, specific and extensive efforts are
25 required by law to attempt to obtain the
26 consents required under section 63.062, Florida
27 Statutes. If these efforts are unsuccessful,
28 the court may not enter a judgment terminating
29 parental rights pending adoption until certain
30 requirements have been met.
31

- 1 11. Under Florida law, an intermediary
2 may represent the legal interests of only the
3 prospective adoptive parents. Each person whose
4 consent to an adoption is required under
5 section 63.062, Florida Statutes, is entitled
6 to seek independent legal advice and
7 representation before signing any document or
8 surrendering parental rights.
- 9 12. Under section 63.182, Florida
10 Statutes, an action or proceeding of any kind
11 to vacate, set aside, or otherwise nullify a
12 judgment of adoption or an underlying judgment
13 terminating parental rights pending adoption,
14 on any ground, including duress but excluding
15 fraud, must be filed within 1 year after entry
16 of the judgment terminating parental rights
17 pending adoption. Such an action or proceeding
18 for fraud must be filed within 2 years after
19 entry of the judgment terminating parental
20 rights.
- 21 13. Under section 63.089, Florida
22 Statutes, a judgment terminating parental
23 rights pending adoption is voidable and any
24 later judgment of adoption of that minor is
25 voidable if, upon the motion of a parent, the
26 court finds that any person knowingly gave
27 false information that prevented the parent
28 from timely making known his or her desire to
29 assume parental responsibilities toward the
30 minor or to exercise his or her parental
31 rights. The motion must be filed with the court

1 that originally entered the judgment. The
2 motion must be filed within a reasonable time,
3 but not later than 2 years after the date the
4 judgment to which the motion is directed was
5 entered.

6 14. Under section 63.165, Florida
7 Statutes, the State of Florida maintains a
8 registry of adoption information. Information
9 about the registry is available from the
10 Department of Children and Family Services.

11 15. Under section 63.032, Florida
12 Statutes, a court may find that a parent has
13 abandoned his or her child based on conduct
14 during the pregnancy or based on conduct after
15 the child is born. In addition, under section
16 63.089, Florida Statutes, the failure of a
17 parent to respond to notices of proceedings
18 involving his or her child shall result in
19 termination of parental rights of a parent. A
20 lawyer can explain what a parent must do to
21 protect his or her parental rights. Any parent
22 wishing to protect his or her parental rights
23 should act IMMEDIATELY.

24 16. Each parent and prospective adoptive
25 parent is entitled to independent legal advice
26 and representation. Attorney information may be
27 obtained from the yellow pages, The Florida
28 Bar's lawyer referral service, and local legal
29 aid offices and bar associations.

30
31

1 17. Counseling services may be helpful
2 while making a parenting decision. Consult the
3 yellow pages of the telephone directory.
4 18. Medical and social services support
5 is available if the parent wishes to retain
6 parental rights and responsibilities. Consult
7 the Department of Children and Family Services.
8 19. Under section 63.039, Florida
9 Statutes, an adoption entity has certain legal
10 responsibilities and may be liable for damages
11 to persons whose consent to an adoption is
12 required or to prospective adoptive parents for
13 failing to materially meet those
14 responsibilities. Damages may also be recovered
15 from an adoption entity if a consent to
16 adoption or affidavit of nonpaternity is
17 obtained by fraud or under duress attributable
18 to an adoption entity.
19 20. Under section 63.097, Florida
20 Statutes, reasonable living expenses of the
21 birth mother may be paid by the prospective
22 adoptive parents and the adoption entity only
23 if the birth mother is unable to pay due to
24 unemployment, underemployment, or disability.
25 The law also allows payment of reasonable and
26 necessary medical expenses, expenses necessary
27 to comply with the requirements of chapter 63,
28 Florida Statutes, court filing expenses, and
29 costs associated with advertising. Certain
30 documented legal, counseling, and other
31 professional fees may be paid. Prior approval

1 of the court is not required until the
2 cumulative total of amounts permitted exceeds
3 \$2,500 in legal or other fees, \$500 in court
4 costs, \$3,000 in expenses or \$1,500 in
5 cumulative expenses incurred prior to the date
6 the prospective adoptive parent retains the
7 adoption entity. The following fees, costs, and
8 expenses are prohibited:
9 a. Any fee or expense that constitutes
10 payment for locating a minor for adoption.
11 b. Any lump-sum payment to the entity
12 which is nonrefundable directly to the payor or
13 which is not itemized on the affidavit.
14 c. Any fee on the affidavit which does
15 not specify the service that was provided and
16 for which the fee is being charged, such as a
17 fee for facilitation or acquisition.
18
19 The court may reduce amounts charged or refund
20 amounts that have been paid if it finds that
21 these amounts were more than what was
22 reasonable or allowed under the law.
23 21. Under section 63.132, Florida
24 Statutes, the adoption entity and the
25 prospective adoptive parents must sign and file
26 with the court a written statement under oath
27 listing all the fees, expenses, and costs made,
28 or agreed to be made, by or on behalf of the
29 prospective adoptive parents and any adoption
30 entity in connection with the adoption. The
31 affidavit must state whether any of the

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

14
15 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
16 must obtain a written statement acknowledging receipt of the
17 disclosure required under subsection (1) and signed by the
18 persons receiving the disclosure or, if it is not possible to
19 obtain such an acknowledgment, the adoption entity must
20 execute an affidavit stating why an acknowledgment could not
21 be obtained. If the disclosure was delivered by certified
22 United States mail, return receipt requested, a return receipt
23 signed by the person from whom acknowledgment is required is
24 sufficient to meet the requirements of this subsection. A copy
25 of the acknowledgment of receipt of the disclosure must be
26 provided to the person signing it. A copy of the
27 acknowledgment or affidavit executed by the adoption entity in
28 lieu of the acknowledgment must be maintained in the file of
29 the adoption entity. The original acknowledgment or affidavit
30 must be filed with the court. In the case of a disclosure
31 provided under subsection (1), the original acknowledgment or

1 affidavit must be included in the preliminary home study
2 required in s. 63.092.

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

8 Section 15. Section 63.087, Florida Statutes, is
9 created to read:

10 63.087 Proceeding to terminate parental rights pending
11 adoption; general provisions.--

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

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

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

29 (4) VENUE.--

30 (a) A petition to terminate parental rights pending
31 adoption must be filed:

- 1 1. In the county where the child resided for the
2 previous 6 months;
- 3 2. If the child is younger than 6 months of age or has
4 not continuously resided in one county for the previous 6
5 months, in the county where the parent resided at the time of
6 the execution of the consent to adoption or the affidavit of
7 nonpaternity;
- 8 3. If the child is younger than 6 months of age and a
9 waiver of venue has been obtained pursuant to 63.062 in the
10 county where the adoption entity is located or, if the
11 adoption entity has more than one place of business, in the
12 county which is located in closest proximity to the county in
13 which the parent whose rights are to be terminated resided at
14 the time of execution of the consent or affidavit of
15 nonpaternity;
- 16 4. If there is no consent or affidavit of nonpaternity
17 executed by a parent, in the county where the birth mother
18 resides; or
- 19 5. If neither parent resides in the state, venue is in
20 the county where the adoption entity is located.
- 21 (b) Regardless of the age of the child, if the
22 adoption entity is notified that a parent whose parental
23 rights are to be terminated intends to contest the
24 termination, venue must be in the county where that parent
25 resides. If there is no such residence in this state, venue
26 must be in the county where:
- 27 1. At least one parent whose rights are to be
28 terminated resides;
- 29 2. At least one parent resided at the time of
30 execution of a consent or affidavit of nonpaternity; or
31

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

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

10 (d) If there is a transfer of venue, the adoption
11 entity or the petitioner shall bear the cost of venue
12 transfer.

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

19 (6) PETITION.--

20 (a) A proceeding seeking to terminate parental rights
21 pending adoption pursuant to this chapter must be initiated by
22 the filing of an original petition after the birth of the
23 minor.

24 (b) The petition may be filed by a parent or person
25 having legal custody of the minor. The petition may be filed
26 by an adoption entity only if a parent or person having legal
27 custody who has executed a consent to adoption pursuant to s.
28 63.082 consents in writing to the entity filing the petition.
29 The original of such consent must be filed with the petition.

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

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

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

13 (f) The petition must include:

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

24 2. If the petition is filed before the day the minor
25 is 6 months old and if the identity or location of the father
26 is unknown, each city in which the mother resided or traveled,
27 in which conception may have occurred, during the 12 months
28 before the minor's birth, including the county and state in
29 which that city is located.

30 3. Unless a consent to adoption or affidavit of
31 nonpaternity executed by each person whose consent is required

1 under s. 63.062 is attached to the petition, the name and the
2 city of residence, including the county and state in which
3 that city is located, of:

4 a. The minor's mother;

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

7 c. Any person who has legal custody, as defined in s.
8 39.01, of the minor.

9
10 If a required name or address is not known, the petition must
11 so state.

12 4. All information required by the Uniform Child
13 Custody Jurisdiction Act and the Indian Child Welfare Act.

14 5. A statement of the grounds under s. 63.089 upon
15 which the petition is based.

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

18 7. The name, address, and telephone number of the
19 division of the circuit court in which the petition is to be
20 filed.

21 (7) ANSWER NOT REQUIRED.--An answer to the petition or
22 any pleading need not be filed by any minor, parent, or person
23 having legal custody of the minor, but any matter that might
24 be set forth in an answer or other pleading may be pleaded
25 orally before the court or filed in writing. However, failure
26 to file a written response or to appear at the hearing on the
27 petition constitutes grounds upon which the court may
28 terminate parental rights. Notwithstanding the filing of any
29 answer or any pleading, any person present at the hearing to
30 terminate parental rights pending adoption whose consent to
31 adoption is required under s. 63.062 must:

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

4 (b) Be given an opportunity to deny the allegations in
5 the petition; and

6 (c) Be given the opportunity to challenge the validity
7 of any consent or affidavit of nonpaternity signed by any
8 person.

9 Section 16. Section 63.088, Florida Statutes, is
10 created to read:

11 63.088 Proceeding to terminate parental rights pending
12 adoption; notice and service; diligent search.--

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

24 (2) LOCATION AND IDENTITY KNOWN.--Before the court may
25 determine that a minor is available for adoption, and in
26 addition to the other requirements set forth in this chapter,
27 each person whose consent is required under s. 63.062, who has
28 not executed an affidavit of nonpaternity and whose location
29 and identity have been determined by compliance with the
30 procedures in this section, must be personally served,
31 pursuant to chapter 48, at least 30 days before the hearing

1 with a copy of the petition to terminate parental rights
2 pending adoption and with notice in substantially the
3 following form:

4
5 NOTICE OF PETITION AND HEARING
6 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

7
8 A petition to terminate parental rights pending
9 adoption has been filed. A copy of the petition
10 is being served with this notice. There will be
11 a hearing on the petition to terminate parental
12 rights pending adoption on ... (date) ... at
13 ... (time) ... before ... (judge) ... at ...
14 (location, including complete name and street
15 address of the courthouse) The court has
16 set aside ... (amount of time) ... for this
17 hearing. If you executed a consent or an
18 affidavit of nonpaternity and a waiver of
19 venue, you have the right to request that the
20 termination of parental rights hearing be
21 transferred to the county in which you reside.

22
23 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
24 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
25 THE COURT OR TO APPEAR AT THIS HEARING
26 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL
27 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING
28 THE MINOR CHILD.

29
30 (3) REQUIRED INQUIRY.--In proceedings initiated under
31 s. 63.087, the court must conduct an inquiry of the person who

1 is placing the minor for adoption and of any relative or
2 person having legal custody of the minor who is present at the
3 hearing and likely to have the following information regarding
4 the identity of:

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

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

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

12 (d) Any person the mother has reason to believe may be
13 the father and from whom she has received payments or promises
14 of support with respect to the minor or because of her
15 pregnancy;

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

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

21 (g) Any person the mother has reason to believe may be
22 the father.

23
24 The information required under this subsection may be provided
25 to the court in the form of a sworn affidavit by a person
26 having personal knowledge of the facts, addressing each
27 inquiry enumerated in this subsection, except that, if the
28 inquiry identifies a father under paragraph (a) or paragraph
29 (b), the inquiry shall not continue further. The inquiry
30 required under this subsection may be conducted before the
31 birth of the minor.

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

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

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

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

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

25 (e) Names and addresses of relatives to the extent
26 such can be reasonably obtained from the petitioner or other
27 sources, contacts with those relatives, and inquiry as to the
28 person's last known address. The petitioner shall pursue any
29 leads of any addresses to which the person may have moved.
30 Relatives include, but are not limited to, parents, brothers,
31 sisters, aunts, uncles, cousins, nieces, nephews,

1 grandparents, great-grandparents, former or current in-laws,
2 stepparents, and stepchildren;
3 (f) Information as to whether or not the person may
4 have died and, if so, the date and location;
5 (g) Telephone listings in the area where the person
6 last resided;
7 (h) Inquiries of law enforcement agencies in the area
8 where the person last resided;
9 (i) Highway patrol records in the state where the
10 person last resided;
11 (j) Department of Corrections records in the state
12 where the person last resided;
13 (k) Hospitals in the area where the person last
14 resided;
15 (l) Records of utility companies, including water,
16 sewer, cable television, and electric companies, in the area
17 where the person last resided;
18 (m) Records of the Armed Forces of the United States
19 as to whether there is any information as to the person;
20 (n) Records of the tax assessor and tax collector in
21 the area where the person last resided;
22 (o) Search of one Internet data bank locator service;
23 and
24 (p) Information held by all medical providers who
25 rendered medical treatment or care to the birth mother and
26 child, including the identity and location information of all
27 persons listed by the mother as being financially responsible
28 for the uninsured expenses of treatment or care and all
29 persons who made any such payments.
30
31

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

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

1 subsection are unknown and cannot be reasonably ascertained,
2 the notice must so state.

3 Section 17. Section 63.089, Florida Statutes, is
4 created to read:

5 63.089 Proceeding to terminate parental rights pending
6 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

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

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

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

17 3. Notice has been provided under ss. 63.087 and
18 63.088.

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

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

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

27 3. An affidavit of nonpaternity which affirmatively
28 waives service has been executed and filed with the court.

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

30 (d) The petition contains all information required
31 under s. 63.087 and all affidavits of inquiry, diligent

1 search, and service required under s. 63.088 have been
2 obtained and filed with the court.

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

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

12 (b) Has executed an affidavit of nonpaternity and the
13 affidavit was obtained according to the requirements of this
14 chapter;

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

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

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

27 (f) Is a person who has legal custody of the person to
28 be adopted, other than a parent, who has failed to respond in
29 writing to a request for consent for a period of 60 days or,
30 after examination of his or her written reasons for
31

1 withholding consent, is found by the court to be withholding
2 his or her consent unreasonably;

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

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

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

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

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

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

29 3. Whether the person alleged to have abandoned the
30 child, while being able, refused to provide financial support
31

1 after such person was informed he may be the father of the
2 child;

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

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

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

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

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

28 2. The incarcerated parent has been determined by the
29 court to be a violent career criminal as defined in s.
30 775.084, a habitual violent felony offender as defined in s.
31 775.084, convicted of child abuse as defined in s. 827.03, or

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

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

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

26 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
27 court does not find by clear and convincing evidence that
28 parental rights of a parent should be terminated pending
29 adoption, the court must dismiss the petition with prejudice
30 and that parent's parental rights that were the subject of
31 such petition remain in full force under the law. The order

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

15 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
16 ADOPTION.--

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

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

25 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
26 RIGHTS.--

27 (a) A judgment terminating parental rights pending
28 adoption is voidable and any later judgment of adoption of
29 that minor is voidable if, upon the motion of a parent, the
30 court finds that a person knowingly gave false information
31 that prevented the parent from timely making known his or her

1 desire to assume parental responsibilities toward the minor or
2 meeting the requirements under this chapter to exercise his or
3 her parental rights. A motion under this subsection must be
4 filed with the court originally entering the judgment. The
5 motion must be filed within a reasonable time, but not later
6 than 2 years after the entry of the judgment terminating
7 parental rights.

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

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

29 (d) No later than 45 days after the preliminary
30 hearing, the court must conduct a final hearing on the motion
31

1 to set aside the judgment and enter its written order as
2 expeditiously as possible thereafter.

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

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

12 63.092 Report to the court of intended placement by an
13 adoption entity; at-risk placement ~~intermediary~~; preliminary
14 study.--

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

22 (2) AT-RISK PLACEMENT.--If the minor is placed in the
23 prospective adoptive home before the parental rights of the
24 minor's parents are terminated under s. 63.089, the placement
25 is an at-risk placement. If the placement is an at-risk
26 placement, the prospective adoptive parents must acknowledge
27 in writing before the minor may be placed in the prospective
28 adoptive home that the placement is at risk and that the minor
29 is subject to removal from the prospective adoptive home by
30 the adoption entity or by court order.

31

1 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the
2 minor in the intended adoptive home, a preliminary home study
3 must be performed by a licensed child-placing agency, a
4 licensed professional, or agency described in s. 61.20(2),
5 unless the petitioner is a stepparent, a spouse of the ~~birth~~
6 parent, or a relative. The preliminary study shall be
7 completed within 30 days after the receipt by the court of the
8 adoption entity's intermediary's report, but in no event may
9 the minor child be placed in the prospective adoptive home
10 prior to the completion of the preliminary study unless
11 ordered by the court. If the petitioner is a stepparent, a
12 spouse of the ~~birth~~ parent, or a relative, the preliminary
13 home study may be required by the court for good cause shown.
14 The department is required to perform the preliminary home
15 study only if there is no licensed child-placing agency,
16 licensed professional, or agency described in s. 61.20(2), in
17 the county where the prospective adoptive parents reside. The
18 preliminary home study must be made to determine the
19 suitability of the intended adoptive parents and may be
20 completed prior to identification of a prospective adoptive
21 minor child. A favorable preliminary home study is valid for
22 1 year after the date of its completion. A minor may child
23 ~~must~~ not be placed in an intended adoptive home before a
24 favorable preliminary home study is completed unless the
25 adoptive home is also a licensed foster home under s. 409.175.
26 The preliminary home study must include, at a minimum:
27 (a) An interview with the intended adoptive parents;
28 (b) Records checks of the department's central abuse
29 registry and criminal records correspondence checks pursuant
30 to s. 435.045 through the Department of Law Enforcement on the
31 intended adoptive parents;

1 (c) An assessment of the physical environment of the
2 home;
3 (d) A determination of the financial security of the
4 intended adoptive parents;
5 (e) Documentation of counseling and education of the
6 intended adoptive parents on adoptive parenting;
7 (f) Documentation that information on adoption and the
8 adoption process has been provided to the intended adoptive
9 parents;
10 (g) Documentation that information on support services
11 available in the community has been provided to the intended
12 adoptive parents; and
13 (h) A copy of each ~~the~~ signed acknowledgment statement
14 required by s. 63.085. ~~and~~
15 ~~(i) A copy of the written acknowledgment required by~~
16 ~~s. 63.085(1).~~
17
18 If the preliminary home study is favorable, a minor may be
19 placed in the home pending entry of the judgment of adoption.
20 A minor may not be placed in the home if the preliminary home
21 study is unfavorable. If the preliminary home study is
22 unfavorable, the adoption entity intermediary or petitioner
23 may, within 20 days after receipt of a copy of the written
24 recommendation, petition the court to determine the
25 suitability of the intended adoptive home. A determination as
26 to suitability under this subsection does not act as a
27 presumption of suitability at the final hearing. In
28 determining the suitability of the intended adoptive home, the
29 court must consider the totality of the circumstances in the
30 home.
31

1 Section 19. Section 63.097, Florida Statutes, is
2 amended to read:

3 63.097 Fees.--

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

7 (a) Foster care expenses;

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

9 and

10 (c) Agency facility and administrative costs.

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

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

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

23 (b) Reasonable and necessary medical expenses.

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

29 (d) Court filing expenses, court costs, and other
30 litigation expenses.

31

1 (e) Costs associated with advertising under s.
2 63.212(1)(g).

3 (f) The following professional fees:

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

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

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

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

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

29 (b) \$500 in court costs;

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

31

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

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

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

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

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

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

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

30 ~~(6)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--Unless~~
31 otherwise indicated in this section, when an adoption entity

1 ~~intermediary~~ uses the services of a licensed child-placing
2 agency, a professional, any other person or agency pursuant to
3 s. 63.092, or, if necessary, the department, the person
4 seeking to adopt the child must pay the licensed child-placing
5 agency, professional, other person or agency, or the
6 department an amount equal to the cost of all services
7 performed, including, but not limited to, the cost of
8 conducting the preliminary home study, counseling, and the
9 final home investigation. The court, upon a finding that the
10 person seeking to adopt the child is financially unable to pay
11 that amount, may order that such person pay a lesser amount.

12 Section 20. Section 63.102, Florida Statutes, is
13 amended to read:

14 63.102 Filing of petition; venue; proceeding for
15 approval of fees and costs.--

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

30 (2) A petition for adoption or for a declaratory
31 statement as to the adoption contract shall be filed in the

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

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

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

28 (5) A proceeding for prior approval of fees and costs
29 may be commenced any time after an agreement is reached
30 between the birth mother and the adoptive parents by filing a
31 petition for declaratory statement on the agreement entitled

1 "In the Matter of the Proposed Adoption of a Minor Child" in
2 the circuit court. ~~If a petition for adoption is subsequently~~
3 ~~filed, the petition for declaratory statement and the petition~~
4 ~~for adoption must be consolidated into one case.~~

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

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

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

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

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

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

7 (f) Prior approval of fees and costs by the court does
8 not obligate the parent to ultimately relinquish the minor for
9 adoption.

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

12 63.112 Petition for adoption; description; report or
13 recommendation, exceptions; mailing.--

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

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

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

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

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

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

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

31

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

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

9 (i) The reasons why the petitioner desires to adopt
10 the person.

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

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

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

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

23 1. ~~The birth mother, if parental rights have not been~~
24 ~~terminated;~~

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

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

31

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

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

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

12 Section 22. Section 63.122, Florida Statutes, is
13 amended to read:

14 63.122 Notice of hearing on petition.--

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

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

29 (3) Upon a showing by the petitioner that the privacy
30 of the petitioner or minor child may be endangered, the court
31 may order the names of the petitioner or minor child, or both,

1 to be deleted from the notice of hearing and from the copy of
2 the petition attached thereto, provided the substantive rights
3 of any person will not thereby be affected.

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

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

8 ~~(b) The intermediary.~~

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

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

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

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

21 63.125 Final home investigation.--

22 (1) The final home investigation must be conducted
23 before the adoption becomes final. The investigation may be
24 conducted by a licensed child-placing agency or a professional
25 in the same manner as provided in s. 63.092 to ascertain
26 whether the adoptive home is a suitable home for the minor and
27 whether the proposed adoption is in the best interest of the
28 minor. Unless directed by the court, an investigation and
29 recommendation are not required if the petitioner is a
30 stepparent or if the minor child is related to one of the
31 adoptive parents within the third degree of consanguinity.

1 The department is required to perform the home investigation
2 only if there is no licensed child-placing agency or
3 professional pursuant to s. 63.092 in the county in which the
4 prospective adoptive parent resides.

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

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

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

21 (5) The final home investigation must include:

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

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

28 (c) The family social and medical history as provided
29 in s. 63.082.

30 (d) Any other information relevant to the suitability
31 of the intended adoptive home.

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

3 Section 24. Section 63.132, Florida Statutes, is
4 amended to read:

5 63.132 Affidavit ~~Report~~ of expenses ~~expenditures~~ and
6 receipts.--

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

11 (a) The affidavit must be signed by the adoption
12 entity and the prospective adoptive parents. A copy of the
13 affidavit must be provided to the adoptive parents at the time
14 the affidavit is executed.

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

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

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

- 1 ~~1.(a)~~ The birth of the minor.
- 2 ~~2.(b)~~ The placement of the minor with the petitioner.
- 3 ~~3.(c)~~ The medical or hospital care received by the
4 mother or by the minor during the mother's prenatal care and
5 confinement.
- 6 ~~4.(d)~~ The living expenses of the birth mother. The
7 living expenses must be documented in detail to apprise the
8 court of the exact expenses incurred.
- 9 ~~5.(e)~~ The services relating to the adoption or to the
10 placement of the minor for adoption that were received by or
11 on behalf of the petitioner, the adoption entity intermediary,
12 either ~~natural~~ parent, the minor, or any other person.
- 13
- 14 The affidavit must state whether any of these expenses were
15 paid for by collateral sources, including, but not limited to,
16 health insurance, Medicaid, Medicare, or public assistance.
- 17 (2) The court may require such additional information
18 as is deemed necessary.
- 19 (3) The court must issue a separate order approving or
20 disapproving the fees, costs, and expenses itemized in the
21 affidavit. The court may approve only fees, costs, and
22 expenditures allowed under s. 63.097. The court may reject in
23 whole or in part any fee, cost, or expenditure listed if the
24 court finds that the expense is:
- 25 (a) Contrary to this chapter;
- 26 (b) Not supported by a receipt in the record, if the
27 expense is not a fee of the adoption entity; or
- 28 (c) Not a reasonable fee or expense, considering the
29 requirements of this chapter and the totality of the
30 circumstances.
- 31

1 ~~(4)(3)~~ This section does not apply to an adoption by a
2 stepparent whose spouse is a ~~natural or adoptive~~ parent of the
3 minor child.

4 Section 25. Section 63.142, Florida Statutes, is
5 amended to read:

6 63.142 Hearing; judgment of adoption.--

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

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

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

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

17 (3) DISMISSAL.--

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

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

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

30 (a) A judgment terminating parental rights pending
31 adoption is voidable and any later judgment of adoption of

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

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

22 (c) At the preliminary hearing, the court, upon the
23 motion of any party or its own motion, may order scientific
24 testing to determine the paternity of the minor if the person
25 seeking to set aside the judgment is alleging to be the
26 child's father and that fact has not previously been
27 determined by legitimacy or scientific testing. The court may
28 order supervised visitation with a person for whom scientific
29 testing for paternity has been ordered. Such visitation shall
30 be conditioned upon the filing of those test results with the
31

1 court and such results establishing that person's paternity of
2 the minor.

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

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

10 63.162 Hearings and records in adoption proceedings;
11 confidential nature.--

12 (2) All papers and records pertaining to the adoption,
13 including the original birth certificate, whether part of the
14 permanent record of the court or a file in the office of an
15 adoption entity department, ~~in a licensed child-placing~~
16 ~~agency, or in the office of an intermediary~~ are confidential
17 and subject to inspection only upon order of the court;
18 however, the petitioner in any proceeding for adoption under
19 this chapter may, at the option of the petitioner, make public
20 the reasons for a denial of the petition for adoption. The
21 order must specify which portion of the records are subject to
22 inspection, and it may exclude the name and identifying
23 information concerning the ~~birth~~ parent or adoptee. Papers and
24 records of the department, a court, or any other governmental
25 agency, which papers and records relate to adoptions, are
26 exempt from s. 119.07(1). In the case of a nonagency
27 adoption, the department must be given notice of hearing and
28 be permitted to present to the court a report on the
29 advisability of disclosing or not disclosing information
30 pertaining to the adoption. In the case of an agency
31 adoption, the child-caring agency registered under s. 409.176

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

10 Section 27. Section 63.165, Florida Statutes, is
11 amended to read:

12 63.165 State registry of adoption information; duty to
13 inform and explain.--Notwithstanding any other law to the
14 contrary, the department shall maintain a registry with the
15 last known names and addresses of an adoptee and his or her
16 ~~natural~~ parents whose consent was required under s. 63.062,
17 and adoptive parents and any other identifying information
18 that ~~which~~ the adoptee, ~~natural~~ parents whose consent was
19 required under s. 63.062, or adoptive parents desire to
20 include in the registry. The registry shall be open with
21 respect to all adoptions in the state, regardless of when they
22 took place. The registry shall be available for those persons
23 choosing to enter information therein, but no one shall be
24 required to do so.

25 (1) Anyone seeking to enter, change, or use
26 information in the registry, or any agent of such person,
27 shall present verification of his or her identity and, if
28 applicable, his or her authority. A person who enters
29 information in the registry shall be required to indicate
30 clearly the persons to whom he or she is consenting to release
31 this information, which persons shall be limited to the

1 adoptee and the birth ~~natural~~ mother, ~~natural~~ father whose
2 consent was required under s. 63.062, adoptive mother,
3 adoptive father, birth ~~natural~~ siblings, and maternal and
4 paternal birth ~~natural~~ grandparents of the adoptee. Except as
5 provided in this section, information in the registry is
6 confidential and exempt from ~~the provisions of s. 119.07(1)~~.
7 Consent to the release of this information may be made in the
8 case of a minor adoptee by his or her adoptive parents or by
9 the court after a showing of good cause. At any time, any
10 person may withdraw, limit, or otherwise restrict consent to
11 release information by notifying the department in writing.

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

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

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

29 (Substantial rewording of section. See
30 s. 63.182, F.S., for present text.)
31 63.182 Statute of repose.--

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

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

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

14 63.202 Authority to license; adoption of rules.--

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

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

20 63.207 Out-of-state placement.--

21 (1) Unless the parent placing a minor for adoption
22 files an affidavit that the parent chooses to place the minor
23 outside the state, giving the reason for that placement, or
24 the minor ~~child~~ is to be placed with a relative within the
25 third degree or with a stepparent, or the minor is a special
26 needs child, as defined in s. 409.166, or for other good cause
27 shown, an adoption entity may not ~~no person except an~~
28 intermediary, an agency, or the department shall:

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

31

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

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

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

28 Section 31. Section 63.212, Florida Statutes, is
29 amended to read:

30 63.212 Prohibited acts; penalties for violation;
31 preplanned adoption agreement.--

1 (1) It is unlawful for any person:
2 (a) ~~Except the department, an intermediary, or an~~
3 ~~agency,~~To place or attempt to place a minor child for
4 adoption with a person who primarily lives and works outside
5 this state unless the minor child is placed with a relative
6 within the third degree or with a stepparent. ~~An intermediary~~
7 ~~may place or attempt to place a special needs child for~~
8 ~~adoption with a person who primarily lives and works outside~~
9 ~~this state only if the intermediary has a declaratory~~
10 ~~statement from the court establishing the fees to be paid.~~
11 This requirement does not apply if the minor child is placed
12 by an adoption entity in accordance with s. 63.207 with a
13 ~~relative within the third degree or with a stepparent.~~
14 (b) ~~Except the department, an intermediary, or an~~
15 ~~agency, to place or attempt to place a child for adoption with~~
16 ~~a family whose primary residence and place of employment is in~~
17 ~~another state unless the child is placed with a relative~~
18 ~~within the third degree or with a stepparent. An intermediary~~
19 ~~may place or attempt to place a special needs child for~~
20 ~~adoption with a family whose primary residence and place of~~
21 ~~employment is in another state only if the intermediary has a~~
22 ~~declaratory statement from the court establishing the fees to~~
23 ~~be paid. This requirement does not apply if the child is~~
24 ~~placed with a relative within the third degree or with a~~
25 ~~stepparent.~~
26 (b)(c) Except an adoption entity ~~the Department of~~
27 ~~Children and Family Services, an agency, or an intermediary,~~
28 to place or attempt to place within the state a minor child
29 for adoption unless the minor child is placed with a relative
30 within the third degree or with a stepparent. This
31 prohibition, however, does not apply to a person who is

1 placing or attempting to place a minor child for the purpose
2 of adoption with the adoption entity ~~Department of Children~~
3 ~~and Family Services or an agency or through an intermediary.~~
4 (c)(d) To sell or surrender, or to arrange for the
5 sale or surrender of, a minor child to another person for
6 money or anything of value or to receive such minor child for
7 such payment or thing of value. If a minor child is being
8 adopted by a relative within the third degree or by a
9 stepparent, or is being adopted through an adoption entity,
10 this paragraph does not prohibit ~~the Department of Children~~
11 ~~and Family Services, an agency, or an intermediary, nothing~~
12 ~~herein shall be construed as prohibiting~~ the person who is
13 contemplating adopting the child from paying, under ss. 63.097
14 and 63.132, the actual prenatal care and living expenses of
15 the mother of the child to be adopted, or nor from paying,
16 under ss. 63.097 and 63.132, the actual living and medical
17 expenses of such mother for a reasonable time, not to exceed 6
18 weeks, if medical needs require such support, after the birth
19 of the minor child.
20 (d)(e) Having the rights and duties of a parent with
21 respect to the care and custody of a minor to assign or
22 transfer such parental rights for the purpose of, incidental
23 to, or otherwise connected with, selling or offering to sell
24 such rights and duties.
25 (e)(f) To assist in the commission of any act
26 prohibited in paragraphs (a)-(d) ~~paragraph (a), paragraph (b),~~
27 ~~paragraph (c), paragraph (d), or paragraph (e).~~
28 (f)(g) Except an adoption entity ~~the Department of~~
29 ~~Children and Family Services or an agency~~, to charge or accept
30 any fee or compensation of any nature from anyone for making a
31 referral in connection with an adoption.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

7 (2)(a) It is unlawful for any person under this
8 chapter to:

- 9 1. Knowingly provide false information;
10 2. Knowingly withhold material information; or
11 3. For a parent, with the intent to defraud, to accept
12 benefits related to the same pregnancy from more than one
13 adoption entity without disclosing that fact to each entity.

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

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

27 ~~(3)(2)~~ This section does not ~~Nothing herein shall be~~
28 ~~construed to prohibit~~ an adoption entity a licensed
29 ~~child-placing agency~~ from charging fees permitted under this
30 chapter and reasonably commensurate to the services provided.
31

1 ~~(4)(3)~~ It is unlawful for any adoption entity
2 ~~intermediary~~ to fail to report to the court, prior to
3 placement, the intended placement of a minor child for
4 purposes of adoption with any person not a stepparent or a
5 relative within the third degree, if the adoption entity
6 ~~intermediary~~ participates in such intended placement.

7 ~~(5)(4)~~ It is unlawful for any adoption entity
8 ~~intermediary~~ to charge any fee except those fees permitted
9 under s. 63.097 and approved under s. 63.102 over \$1,000 and
10 ~~those costs as set out in paragraph (1)(d) over \$2,500, other~~
11 ~~than for actual documented medical costs, court costs, and~~
12 ~~hospital costs unless such fee is approved by the court prior~~
13 ~~to the assessment of the fee by the intermediary and upon a~~
14 ~~showing of justification for the larger fee.~~

15 ~~(6)(5)~~ It is unlawful for any adoption entity
16 ~~intermediary~~ to counsel a birth mother to leave the state for
17 the purpose of giving birth to a child outside the state in
18 order to secure a fee in excess of that permitted under s.
19 63.097 when it is the intention that the child be placed for
20 adoption outside the state.

21 ~~(7)(6)~~ It is unlawful for any adoption entity
22 ~~intermediary~~ to obtain a preliminary home study or final home
23 investigation and fail to disclose the existence of the study
24 or investigation to the court.

25 ~~(8)(7)~~ Unless otherwise indicated, a person who
26 violates any provision of this section, excluding paragraph
27 (1)(g)(h), commits ~~is guilty of~~ a felony of the third degree,
28 punishable as provided in s. 775.082, s. 775.083, or s.
29 775.084. A person who violates paragraph (1)(g)(h) commits ~~is~~
30 ~~guilty of~~ a misdemeanor of the second degree, punishable as
31

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

3 Section 32. Section 63.219, Florida Statutes, is
4 amended to read:

5 63.219 Sanctions.--Upon a finding by the court that an
6 adoption entity ~~intermediary or agency~~ has violated any
7 provision of this chapter, the court is authorized to prohibit
8 the adoption entity ~~intermediary or agency~~ from placing a
9 minor for adoption in the future.

10 Section 33. Paragraph (c) of subsection (1) and
11 paragraph (c) of subsection (2) of section 63.301, Florida
12 Statutes, are amended to read:

13 63.301 Advisory council on adoption.--

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

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

22
23 All members shall be appointed to serve 2-year terms.

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

25 (c) Review and evaluate law, procedures, policies, and
26 practice regarding the protection of children placed for
27 adoption, ~~birth~~ parents, and adoptive parents utilizing the
28 services of an adoption entity ~~the Department of Children and~~
29 ~~Family Services, licensed child placing agencies, and~~
30 ~~intermediaries~~, to determine areas needing legislative,
31 administrative, or other interventions.

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

3 39.01 Definitions.--When used in this chapter, unless
4 the context otherwise requires:

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

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

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

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

1 Section 36. 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)~~(b)~~. If a child has been legally
8 adopted, the term "parent" means the adoptive mother or father
9 of the child. The term does not include an individual whose
10 parental relationship to the child has been legally
11 terminated, or an alleged or prospective parent, unless the
12 parental status falls within the terms of either s. 39.503(1)
13 or s. 63.062(1)~~(b)~~.

14 Section 37. Section 63.072, Florida Statutes, is
15 repealed.

16 Section 38. 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 39. 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 40. This act shall take effect October 1,
26 2000.

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HOUSE SUMMARY

Revises various provisions of the Florida Adoption Act. Deletes provisions that authorize a child-placing agency to petition for termination of a child's parental rights under ch. 39, F.S. Revises the requirements for executing a consent to an adoption. Requires that the Department of Children and Family Services and other agencies that participate in placing persons for adoption make certain disclosures to persons seeking to adopt and to the birth parents of a minor placed for adoption. Requires that the court hold a separate proceeding before the hearing on the adoption to determine whether a minor is available for adoption. Provides requirements for identifying and locating persons who must be notified of the proceeding. Specifies grounds upon which the court may declare that a minor is available for adoption. Provides requirements for the court in determining whether a minor has been abandoned. Revises requirements for the court in approving fees and costs paid in an adoption procedure. Provides that approval by the court of such fees and costs does not obligate the birth parent to relinquish a minor for adoption. Specifies circumstances under which a judgment declaring a minor available for adoption is void. See bill for details.