

By Senator Campbell

33-33-01

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

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

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

1 terminating parental rights pending adoption is
2 voidable; providing for an evidentiary hearing
3 to determine the minor's placement following a
4 motion to void such a judgment; amending s.
5 63.162, F.S.; conforming provisions relating to
6 confidential records of adoption proceedings;
7 amending s. 63.165, F.S.; requiring that the
8 Department of Children and Family Services
9 maintain certain information in the state
10 registry of adoption information for a
11 specified period; amending s. 63.182, F.S.;
12 providing a 1-year statute of repose for
13 actions to set aside or vacate a judgment of
14 adoption or a judgment terminating parental
15 rights pending adoption; providing a 2-year
16 statute of repose for an action in fraud to set
17 aside or vacate a judgment of adoption or a
18 judgment terminating parenting rights; amending
19 s. 63.202, F.S.; conforming provisions relating
20 to agencies authorized to place minors for
21 adoption; amending s. 63.207, F.S.; revising
22 provisions that limit the placement of a minor
23 in another state for adoption; amending s.
24 63.212, F.S.; revising provisions relating to
25 prohibitions and penalties with respect to
26 adoptions; amending s. 63.219, F.S.; conforming
27 provisions relating to sanctions; creating s.
28 63.2325, F.S.; providing conditions for
29 revocation of a consent to adoption or
30 affidavit or nonpaternity; amending ss. 984.03,
31 985.03, F.S.; conforming cross-references;

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

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

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

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

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

1 made in the termination of parental rights process, and the
2 anticipated date of completion of the process.

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

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

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

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

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

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

15 39.806 Grounds for termination of parental rights.--

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

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

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

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1 2. The surrender and consent may be withdrawn after
2 acceptance by the department ~~or licensed child-placing agency~~
3 only after a finding by the court that the surrender and
4 consent were obtained by fraud or under duress.

5 (b) Abandonment as defined in s. 39.01(1) or when the
6 identity or location of the parent or parents is unknown and
7 cannot be ascertained by diligent search within 60 days.

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

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

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

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

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

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

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

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1 (f) When the parent or parents engaged in egregious
2 conduct or had the opportunity and capability to prevent and
3 knowingly failed to prevent egregious conduct that threatens
4 the life, safety, or physical, mental, or emotional health of
5 the child or the child's sibling.

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

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

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

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

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

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

31 39.811 Powers of disposition; order of disposition.--

1 (2) If the child is in the custody of the department
2 and the court finds that the grounds for termination of
3 parental rights have been established by clear and convincing
4 evidence, the court shall, by order, place the child in the
5 custody of the department ~~or a licensed child-placing agency~~
6 for the purpose of adoption.

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

21 Section 5. Section 39.812, Florida Statutes, is
22 amended to read:

23 39.812 Postdisposition relief; petition for
24 adoption.--

25 (1) ~~If A licensed child-placing agency or the~~
26 department ~~which~~ is given custody of a child for subsequent
27 adoption in accordance with this chapter, the department may
28 place the child with an agency as defined in s. 63.032, with a
29 child-caring agency registered under s. 409.176, or in a
30 family home for prospective subsequent adoption., ~~and the~~
31 ~~licensed child-placing agency or~~ The department may thereafter

1 become a party to any proceeding for the legal adoption of the
2 child and appear in any court where the adoption proceeding is
3 pending and consent to the adoption, and that consent alone
4 shall in all cases be sufficient.

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

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

26 (4) The court shall retain jurisdiction over any child
27 placed in the custody of ~~for whom custody is given to a~~
28 ~~licensed child-placing agency or to the department~~ until the
29 child is adopted. After custody of a child for subsequent
30 adoption has been given to ~~an agency or~~ the department, the
31 court has jurisdiction for the purpose of reviewing the status

1 of the child and the progress being made toward permanent
2 adoptive placement. As part of this continuing jurisdiction,
3 for good cause shown by the guardian ad litem for the child,
4 the court may review the appropriateness of the adoptive
5 placement of the child.

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

20 Section 6. Section 63.022, Florida Statutes, is
21 amended to read:

22 63.022 Legislative intent.--

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

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

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

31

1 (b) The required persons consent to the adoption or
2 the parent-child relationship is terminated by judgment of the
3 court.

4 (c) The required social studies are completed and the
5 court considers the reports of these studies prior to judgment
6 on adoption petitions.

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

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

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

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

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

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

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

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

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

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

18 Section 7. Section 63.032, Florida Statutes, is
19 amended to read:

20 63.032 Definitions.--As used in this chapter act,
21 ~~unless the context otherwise requires~~, the term:

22 ~~(1)(14)~~ "Abandoned" means a situation in which the
23 parent or person having legal custody ~~legal custodian~~ of a
24 child, while being able, makes no provision for the child's
25 support and makes no effort to communicate with the child,
26 which situation is sufficient to evince a willful rejection of
27 parental obligations. If, in the opinion of the court, the
28 efforts of such parent or person having legal custody of the
29 child ~~legal custodian~~ to support and communicate with the
30 child are only marginal efforts that do not evince a settled
31 purpose to assume all parental duties, the court may declare

1 the child to be abandoned. In making this decision, the court
2 may consider the conduct of a father towards the child's
3 mother during her pregnancy.

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

10 (3) "Adoption entity" means the department, an agency,
11 a child-caring agency registered under s. 409.176, or an
12 intermediary.

13 (4)~~(5)~~ "Adult" means a person who is not a minor.

14 (5)~~(7)~~ "Agency" means any child-placing agency
15 licensed by the department pursuant to s. 63.202 to place
16 minors for adoption.

17 (6)~~(2)~~ "Child" means a son or daughter, whether by
18 birth or adoption.

19 (7)~~(3)~~ "Court" means any circuit court of this state
20 and, when the context requires, the court of any state that is
21 empowered to grant petitions for adoption.

22 (8)~~(1)~~ "Department" means the Department of Children
23 and Family Services.

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

30 (10) "Legal custody" has the meaning ascribed in s.
31 39.01.

1 (11)~~(4)~~ "Minor" means a person under the age of 18
2 years.

3 (12) "Parent" has the same meaning ascribed in s.
4 39.01.

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

9 (14) "Relative" has the same meaning ascribed in s.
10 39.01.

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

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

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

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

1 familial relationship between the child and the prospective
2 placement;and the compatibility of the child with the home in
3 which the child is intended to be placed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 63.0425 Grandparent's right to adopt.--

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

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

11 63.052 Guardians designated; proof of commitment.--

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

18 (a) The mother of the minor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5
6 AFFIDAVIT OF NONPATERNITY

7
8 1. I have personal knowledge of the facts
9 stated in this affidavit.

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

30 3. This form must include a notice that if an adoption
31 entity knows that a parent whose rights will be terminated

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (b) A consent to the adoption of a minor who is to be
5 placed for adoption with identified prospective adoptive
6 parents under s. 63.052, upon the minor's release from a
7 licensed hospital or birth center following birth, shall not
8 be executed sooner than 48 hours after the minor's birth or
9 the day the birth mother has been notified in writing, either
10 on her patient chart or in release paperwork, that she is fit
11 to be released from a licensed hospital or birth center,
12 whichever is earlier. A consent executed under this paragraph
13 is valid upon execution and may be withdrawn only if the court
14 finds that it was obtained by fraud or under duress. The
15 waiting period provided in this section does not apply in any
16 case in which the revocation period in s. 63.082(4)(c)
17 applies.

18 (c) When the minor to be adopted is not placed
19 pursuant to s. 63.052 upon the minor's release from a licensed
20 hospital or birth center following birth, the consent to
21 adoption may be executed at any time after the birth of the
22 minor. While such consent is valid upon execution, it is
23 subject to the 3-day revocation period under subsection (7) or
24 may be revoked at any time prior to the placement of the minor
25 with the prospective adoptive parents, whichever is later. If
26 a consent has been executed, this subsection may not be
27 construed to provide a birth parent with more than 3 days to
28 revoke that consent once the child has been surrendered to
29 prospective adoptive parents. The revocation period provided
30 in this section does not apply in any case in which the
31 waiting period in s. 63.082(4)(b) applies.

1 (d) The consent to adoption or the affidavit of
2 nonpaternity must be signed ~~child,~~ in the presence of two
3 witnesses, and be acknowledged before a notary public who is
4 not signing as one of the witnesses. The notary public must
5 legibly note on the consent or the affidavit the date and time
6 of execution. The witnesses' names must be typed or printed
7 underneath their signatures. The witnesses', ~~and their~~ home or
8 business addresses and social security numbers, driver's
9 license numbers, or state identification card numbers must be
10 included. The absence of a social security number, driver's
11 license number, or state identification card number shall not
12 ~~be deemed to~~ invalidate the consent. The person who signs the
13 consent or the affidavit has the right to have at least one of
14 the witnesses be an individual who does not have an
15 employment, professional, or personal relationship with the
16 adoption entity or the prospective adoptive parents. The
17 adoption entity must give reasonable notice to the person
18 signing the consent or affidavit of the right to select a
19 witness of his or her own choosing. The person who signs the
20 consent or affidavit must acknowledge in writing on the
21 consent or affidavit that such notice was given and indicate
22 the witness, if any, who was selected by the person signing
23 the consent or affidavit. The adoption entity must include its
24 name, address, and telephone number on the consent to adoption
25 or affidavit of nonpaternity.

26 (e) A consent to adoption must contain, in at least
27 16-point boldfaced type, an acknowledgment of the parent's
28 rights in substantially the following form:

29
30 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
31 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,

1 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
2 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
3 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
4 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
5 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
6 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
7 OR WITNESSES YOU SELECTED, IF ANY.
8
9 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
10 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
11 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:
12
13 1. CONSULT WITH AN ATTORNEY;
14 2. HOLD, CARE FOR, AND FEED THE CHILD;
15 3. PLACE THE CHILD IN FOSTER CARE OR WITH
16 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
17 WILLING TO CARE FOR THE CHILD;
18 4. TAKE THE CHILD HOME UNLESS OTHERWISE
19 LEGALLY PROHIBITED; AND
20 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
21 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
22 THROUGH WITH THE ADOPTION.
23
24 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
25 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID
26 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY
27 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A
28 CHILD WHO IS TO BE PLACED FOR ADOPTION WITH
29 IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON
30 THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
31 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD

1 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT
2 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE
3 TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS
4 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT
5 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO
6 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
7 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY
8 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE
9 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
10 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
11 IT WAS OBTAINED BY FRAUD OR UNDER DURESS.

12
13 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO
14 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S
15 RELEASE FROM A LICENSED HOSPITAL OR BIRTH
16 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE
17 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
18 CHILD. WHILE THE CONSENT IS VALID AND BINDING
19 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.
20 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
21 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
22 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR
23 TO THE PLACEMENT OF THE CHILD WITH THE
24 PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT
25 WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
26 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
27 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
28 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
29 LATER.

30
31

1 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
2 PERIOD, YOU MUST:
3 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
4 A LETTER, THAT YOU ARE WITHDRAWING YOUR
5 CONSENT.
6 2. MAIL THE LETTER AT A UNITED STATES
7 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
8 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
9 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE
10 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
11 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
12 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
13 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.
14 3. SEND THE LETTER BY CERTIFIED UNITED
15 STATES MAIL WITH RETURN RECEIPT REQUESTED.
16 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
17 THE LETTER.
18 5. KEEP THE CERTIFIED MAIL RECEIPT AS
19 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
20 MANNER.
21
22 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
23 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
24 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,
25 IN WRITING BY CERTIFIED UNITED STATES MAIL,
26 RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY
27 YOU SHOULD NOTIFY IS: ...(name of adoption
28 entity)..., ...(address of adoption entity)...,
29 ...(phone number of adoption entity)....
30
31

1 ONCE THE REVOCATION PERIOD IS OVER, OR THE
2 CHILD HAS BEEN PLACED WITH THE PROSPECTIVE
3 ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU
4 MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN
5 PROVE IN COURT THAT CONSENT WAS OBTAINED BY
6 FRAUD OR UNDER DURESS.

7
8 (5) Before any consent to adoption or affidavit of
9 nonpaternity is executed by a parent, but after the birth of
10 the minor, all requirements of disclosure under s. 63.085 must
11 be met.

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

26 (7)(a) A consent that is being withdrawn under
27 paragraph (4)(c) may be withdrawn at any time prior to the
28 minor's placement with the prospective adoptive parents or by
29 notifying the adoption entity in writing by certified United
30 States mail, return receipt requested, not later than 3
31 business days after execution of the consent or 1 business day

1 after the date of the birth mother's discharge from a licensed
2 hospital or birth center, whichever occurs later. As used in
3 this subsection, the term "business day" means any day on
4 which the United States Postal Service accepts certified mail
5 for delivery.

6 (b) Upon receiving written notice from a person of
7 that person's desire to withdraw consent to adoption, the
8 adoption entity must contact the prospective adoptive parent
9 to arrange a time certain for the adoption entity to regain
10 physical custody of the minor, unless, upon a motion for
11 emergency hearing by the adoption entity, the court determines
12 in written findings that placement of the minor with the
13 person withdrawing consent may endanger the minor.

14 (c) If the court finds that such placement may
15 endanger the minor, the court must enter an order regarding
16 continued placement of the minor. The order shall include, but
17 not be limited to, whether temporary placement in foster care
18 is appropriate, whether an investigation by the department is
19 recommended, and whether a relative within the third degree is
20 available for the temporary placement.

21 (d) If the person withdrawing consent claims to be the
22 father of the minor but has not been established to be the
23 father by marriage, court order, or scientific testing, the
24 court may order scientific paternity testing and reserve
25 ruling on removal of the minor until the results of such
26 testing have been filed with the court.

27 (e) The adoption entity must return the minor within 3
28 days after notification of the withdrawal of consent or after
29 the court determines that withdrawal is valid and binding upon
30 consideration of an emergency motion, as filed pursuant to
31

1 subsection (b), to the physical custody of the person
2 withdrawing consent.

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

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

11 Section 14. Section 63.085, Florida Statutes, is
12 amended to read:

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

15 63.085 Disclosure by adoption entity.--

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

29
30 ADOPTION DISCLOSURE
31

1 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
2 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
3 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
4 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
5 ADOPTION UNDER FLORIDA LAW:

6
7 1. Under section 63.102, Florida
8 Statutes, the existence of a placement or
9 adoption contract signed by the parent or
10 prospective adoptive parent, prior approval of
11 that contract by the court, or payment of any
12 expenses permitted under Florida law does not
13 obligate anyone to sign a consent or ultimately
14 place a minor for adoption.

15 2. Under sections 63.092 and 63.125,
16 Florida Statutes, a favorable preliminary home
17 study, before the minor may be placed in that
18 home, and a final home investigation, before
19 the adoption becomes final, must be completed.

20 3. Under section 63.082, Florida
21 Statutes, a consent to adoption or affidavit of
22 nonpaternity may not be signed until after the
23 birth of the minor.

24 4. Under section 63.082, Florida
25 Statutes, if the minor is to be placed for
26 adoption with identified prospective adoptive
27 parents upon release from a licensed hospital
28 or birth center following birth, the consent to
29 adoption may not be signed until 48 hours after
30 birth or until the day the birth mother has
31 been notified in writing, either on her patient

1 chart or in release papers, that she is fit to
2 be released from the licensed hospital or birth
3 center, whichever is sooner. The consent to
4 adoption or affidavit of nonpaternity is valid
5 and binding upon execution unless the court
6 finds it was obtained by fraud or under duress.

7 5. Under section 63.082, Florida
8 Statutes, if the minor is not placed for
9 adoption with the prospective adoptive parent
10 upon release from the hospital or birth center
11 following birth, a 3-day revocation period
12 applies during which consent may be withdrawn
13 for any reason by notifying the adoption entity
14 in writing. In order to withdraw consent, the
15 written withdrawal of consent must be mailed at
16 a United States Post Office no later than 3
17 business days after execution of the consent or
18 1 business day after the date of the birth
19 mother's discharge from a licensed hospital or
20 birth center, whichever occurs later. For
21 purposes of mailing the withdrawal of consent,
22 the term "business day" means any day on which
23 the United States Postal Service accepts
24 certified mail for delivery. The letter must be
25 sent by certified United States mail, return
26 receipt requested. Postal costs must be paid at
27 the time of mailing and the receipt should be
28 retained as proof that consent was withdrawn in
29 a timely manner.

30 6. Under section 63.082, Florida
31 Statutes, and notwithstanding the revocation

1 period, the consent may be withdrawn at any
2 time prior to the placement of the child with
3 the prospective adoptive parent, by notifying
4 the adoption entity in writing by certified
5 United States mail, return receipt requested.
6 7. Under section 63.082, Florida
7 Statutes, if an adoption entity timely receives
8 written notice from a person of that person's
9 desire to withdraw consent, the adoption entity
10 must contact the prospective adoptive parent to
11 arrange a time certain to regain physical
12 custody of the child. Absent a court order for
13 continued placement of the child entered under
14 section 63.082, Florida Statutes, the adoption
15 entity must return the minor within 3 days
16 after notification of the withdrawal of consent
17 to the physical custody of the person
18 withdrawing consent. After the revocation
19 period for withdrawal of consent ends, or after
20 the placement of the child with prospective
21 adoptive parent, whichever occurs later, the
22 consent may be withdrawn only if the court
23 finds that the consent was obtained by fraud or
24 under duress.
25 8. Under section 63.082, Florida
26 Statutes, an affidavit of nonpaternity, once
27 executed, may be withdrawn only if the court
28 finds that it was obtained by fraud or under
29 duress.
30 9. Under section 63.082, Florida
31 Statutes, a person who signs a consent to

1 adoption or an affidavit of nonpaternity must
2 be given reasonable notice of his or her right
3 to select a person who does not have an
4 employment, professional, or personal
5 relationship with the adoption entity or the
6 prospective adoptive parents to be present when
7 the consent or affidavit is executed and to
8 sign the consent or affidavit as a witness.
9 10. Under section 63.088, Florida
10 Statutes, specific and extensive efforts are
11 required by law to attempt to obtain the
12 consents required under section 63.062, Florida
13 Statutes. If these efforts are unsuccessful,
14 the court may not enter a judgment terminating
15 parental rights pending adoption until certain
16 requirements have been met.
17 11. Under Florida law, an intermediary
18 may represent the legal interests of only the
19 prospective adoptive parents. Each person whose
20 consent to an adoption is required under
21 section 63.062, Florida Statutes, is entitled
22 to seek independent legal advice and
23 representation before signing any document or
24 surrendering parental rights.
25 12. Under section 63.182, Florida
26 Statutes, an action or proceeding of any kind
27 to vacate, set aside, or otherwise nullify a
28 judgment of adoption or an underlying judgment
29 terminating parental rights pending adoption,
30 on any ground, including duress but excluding
31 fraud, must be filed within 1 year after entry

1 of the judgment terminating parental rights
2 pending adoption. Such an action or proceeding
3 for fraud must be filed within 2 years after
4 entry of the judgment terminating parental
5 rights.

6 13. Under section 63.089, Florida
7 Statutes, a judgment terminating parental
8 rights pending adoption is voidable and any
9 later judgment of adoption of that minor is
10 voidable if, upon the motion of a parent, the
11 court finds that any person knowingly gave
12 false information that prevented the parent
13 from timely making known his or her desire to
14 assume parental responsibilities toward the
15 minor or to exercise his or her parental
16 rights. The motion must be filed with the court
17 that originally entered the judgment. The
18 motion must be filed within a reasonable time,
19 but not later than 2 years after the date the
20 judgment to which the motion is directed was
21 entered.

22 14. Under section 63.165, Florida
23 Statutes, the State of Florida maintains a
24 registry of adoption information. Information
25 about the registry is available from the
26 Department of Children and Family Services.

27 15. Under section 63.032, Florida
28 Statutes, a court may find that a parent has
29 abandoned his or her child based on conduct
30 during the pregnancy or based on conduct after
31 the child is born. In addition, under section

1 63.089, Florida Statutes, the failure of a
2 parent to respond to notices of proceedings
3 involving his or her child shall result in
4 termination of parental rights of a parent. A
5 lawyer can explain what a parent must do to
6 protect his or her parental rights. Any parent
7 wishing to protect his or her parental rights
8 should act IMMEDIATELY.

9 16. Each parent and prospective adoptive
10 parent is entitled to independent legal advice
11 and representation. Attorney information may be
12 obtained from the yellow pages, The Florida
13 Bar's lawyer referral service, and local legal
14 aid offices and bar associations.

15 17. Counseling services may be helpful
16 while making a parenting decision. Consult the
17 yellow pages of the telephone directory.

18 18. Medical and social services support
19 is available if the parent wishes to retain
20 parental rights and responsibilities. Consult
21 the Department of Children and Family Services.

22 19. Under section 63.039, Florida
23 Statutes, an adoption entity has certain legal
24 responsibilities and may be liable for damages
25 to persons whose consent to an adoption is
26 required or to prospective adoptive parents for
27 failing to materially meet those
28 responsibilities. Damages may also be recovered
29 from an adoption entity if a consent to
30 adoption or affidavit of nonpaternity is
31

1 obtained by fraud or under duress attributable
2 to an adoption entity.
3 20. Under section 63.097, Florida
4 Statutes, reasonable living expenses of the
5 birth mother may be paid by the prospective
6 adoptive parents and the adoption entity only
7 if the birth mother is unable to pay due to
8 unemployment, underemployment, or disability.
9 The law also allows payment of reasonable and
10 necessary medical expenses, expenses necessary
11 to comply with the requirements of chapter 63,
12 Florida Statutes, court filing expenses, and
13 costs associated with advertising. Certain
14 documented legal, counseling, and other
15 professional fees may be paid. Prior approval
16 of the court is not required until the
17 cumulative total of amounts permitted exceeds
18 \$2,500 in legal or other fees, \$500 in court
19 costs, \$3,000 in expenses or \$1,500 in
20 cumulative expenses incurred prior to the date
21 the prospective adoptive parent retains the
22 adoption entity. The following fees, costs, and
23 expenses are prohibited:
24 a. Any fee or expense that constitutes
25 payment for locating a minor for adoption.
26 b. Any lump-sum payment to the entity
27 which is nonrefundable directly to the payor or
28 which is not itemized on the affidavit.
29 c. Any fee on the affidavit which does
30 not specify the service that was provided and
31

1 for which the fee is being charged, such as a
2 fee for facilitation or acquisition.
3
4 The court may reduce amounts charged or refund
5 amounts that have been paid if it finds that
6 these amounts were more than what was
7 reasonable or allowed under the law.
8 21. Under section 63.132, Florida
9 Statutes, the adoption entity and the
10 prospective adoptive parents must sign and file
11 with the court a written statement under oath
12 listing all the fees, expenses, and costs made,
13 or agreed to be made, by or on behalf of the
14 prospective adoptive parents and any adoption
15 entity in connection with the adoption. The
16 affidavit must state whether any of the
17 expenses were eligible to be paid for by any
18 other source.
19 22. Under section 63.132, Florida
20 Statutes, the court order approving the money
21 spent on the adoption must be separate from the
22 judgment making the adoption final. The court
23 may approve only certain costs and expenses
24 allowed under s. 63.097. The court may approve
25 only fees that are allowed under law and that
26 it finds to be "reasonable." A good idea of
27 what is and is not allowed to be paid for in an
28 adoption can be determined by reading sections
29 63.097 and 63.132, Florida Statutes.
30
31

1 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
2 must obtain a written statement acknowledging receipt of the
3 disclosure required under subsection (1) and signed by the
4 persons receiving the disclosure or, if it is not possible to
5 obtain such an acknowledgment, the adoption entity must
6 execute an affidavit stating why an acknowledgment could not
7 be obtained. If the disclosure was delivered by certified
8 United States mail, return receipt requested, a return receipt
9 signed by the person from whom acknowledgment is required is
10 sufficient to meet the requirements of this subsection. A copy
11 of the acknowledgment of receipt of the disclosure must be
12 provided to the person signing it. A copy of the
13 acknowledgment or affidavit executed by the adoption entity in
14 lieu of the acknowledgment must be maintained in the file of
15 the adoption entity. The original acknowledgment or affidavit
16 must be filed with the court. In the case of a disclosure
17 provided under subsection (1), the original acknowledgment or
18 affidavit must be included in the preliminary home study
19 required in s. 63.092.

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

25 (4) REVOCATION OF CONSENT.--Failure to meet the
26 requirements of s. 63.085(1)-(3) does not constitute grounds
27 for revocation of a consent to adoption or affidavit of
28 nonpaternity unless the extent and circumstances of such a
29 failure result in a material failure of fundamental fairness
30 in the administration of due process, or the failure
31

1 constitutes or contributes materially to fraud or duress in
2 obtaining a consent to adoption or affidavit of nonpaternity.

3 Section 15. Section 63.087, Florida Statutes, is
4 created to read:

5 63.087 Proceeding to terminate parental rights pending
6 adoption; general provisions.--

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

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

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

24 (4) VENUE.--

25 (a) A petition to terminate parental rights pending
26 adoption must be filed:

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

29 2. If the child is younger than 6 months of age or has
30 not continuously resided in one county for the previous 6
31 months, in the county where the parent resided at the time of

1 the execution of the consent to adoption or the affidavit of
2 nonpaternity;

3 3. If the child is younger than 6 months of age and a
4 waiver of venue has been obtained pursuant to 63.062 in the
5 county where the adoption entity is located or, if the
6 adoption entity has more than one place of business, in the
7 county which is located in closest proximity to the county in
8 which the parent whose rights are to be terminated resided at
9 the time of execution of the consent or affidavit of
10 nonpaternity; or

11 4. If there is no consent or affidavit of nonpaternity
12 executed by a parent, in the county where the birth mother
13 resides.

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

16 (b) If a petition for termination of parental rights
17 has been filed and a parent whose rights are to be terminated
18 objects to venue, there must be a hearing in which the court
19 shall determine whether that parent intends to assert legally
20 recognized grounds to contest a termination of parental rights
21 and, if so, the court shall immediately transfer venue to the
22 county where that parent resides, if there is such a county,
23 or, if not, a county where:

24 1. At least one parent whose rights are to be
25 terminated resides;

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

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

30
31

1 The court shall consider for purposes of selecting venue the
2 ease of access to the court of the parent who intends to
3 contest a termination of parental rights.

4 (c) If there is a transfer of venue, the adoption
5 entity or the petitioner must bear the cost of venue transfer.

6 (5) PREREQUISITE FOR ADOPTION.--A petition for
7 adoption may not be filed until 30 days after the date the
8 judge signed the judgment terminating parental rights pending
9 adoption under this chapter, unless the adoptee is an adult or
10 the minor has been the subject of a judgment terminating
11 parental rights under chapter 39.

12 (6) PETITION.--

13 (a) A proceeding seeking to terminate parental rights
14 pending adoption pursuant to this chapter must be initiated by
15 the filing of an original petition after the birth of the
16 minor.

17 (b) The petition may be filed by a parent or person
18 having legal custody of the minor. The petition may be filed
19 by an adoption entity only if a parent or person having legal
20 custody who has executed a consent to adoption pursuant to s.
21 63.082 consents in writing to the entity filing the petition.
22 The original of such consent must be filed with the petition.

23 (c) The petition must be entitled: "In the Matter of
24 the Termination of Parental Rights for the Proposed Adoption
25 of a Minor Child."

26 (d) A petition to terminate parental rights may be
27 consolidated with a previously filed petition for a
28 declaratory statement filed under s. 63.102. Only one filing
29 fee may be assessed for both the termination of parental
30 rights and declaratory-statement petitions.

31

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

8 (f) The petition must include:

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

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

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

30 a. The minor's mother;
31

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

3 c. Any person who has legal custody, as defined in s.
4 39.01, of the minor.

5
6 If a required name or address is not known, the petition must
7 so state.

8 4. All information required by the Uniform Child
9 Custody Jurisdiction Act and the Indian Child Welfare Act.

10 5. A statement of the grounds under s. 63.089 upon
11 which the petition is based.

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

14 7. The name, address, and telephone number of the
15 division of the circuit court in which the petition is to be
16 filed.

17 8. A certification of compliance with the requirements
18 of s. 63.0425 regarding notice to grandparents of an impending
19 adoption.

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

31

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) Regulatory agencies, including those regulating
21 licensing in the area where the person last resided;

22 (d) Names and addresses of relatives to the extent
23 such can be reasonably obtained from the petitioner or other
24 sources, contacts with those relatives, and inquiry as to the
25 person's last known address. The petitioner shall pursue any
26 leads of any addresses to which the person may have moved.
27 Relatives include, but are not limited to, parents, brothers,
28 sisters, aunts, uncles, cousins, nieces, nephews,
29 grandparents, great-grandparents, former or current in-laws,
30 stepparents, and stepchildren;

31

1 (e) Information as to whether or not the person may
2 have died and, if so, the date and location;

3 (f) Telephone listings in the area where the person
4 last resided;

5 (g) Inquiries of law enforcement agencies in the area
6 where the person last resided;

7 (h) Highway patrol records in the state where the
8 person last resided;

9 (i) Department of Corrections records in the state
10 where the person last resided;

11 (j) Hospitals in the area where the person last
12 resided;

13 (k) Records of utility companies, including water,
14 sewer, cable television, and electric companies, in the area
15 where the person last resided;

16 (l) Records of the Armed Forces of the United States
17 as to whether there is any information as to the person;

18 (m) Records of the tax assessor and tax collector in
19 the area where the person last resided;

20 (n) Search of one Internet databank locator service;
21 and

22 (o) Information held by all medical providers who
23 rendered medical treatment or care to the birth mother and
24 child, including the identity and location information of all
25 persons listed by the mother as being financially responsible
26 for the uninsured expenses of treatment or care and all
27 persons who made any such payments.

28
29 Any person contacted by a petitioner or adoption entity who is
30 requesting information pursuant to this subsection must
31 release the requested information to the petitioner or

1 adoption entity, except when prohibited by law, without the
2 necessity of a subpoena or court order. An affidavit of
3 diligent search executed by the petitioner and the adoption
4 entity must be filed with the court confirming completion of
5 each aspect of the diligent search enumerated in this
6 subsection and specifying the results. The diligent search
7 required under this subsection may be conducted before the
8 birth of the minor.

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

30 Section 17. Section 63.089, Florida Statutes, is
31 created to read:

1 63.089 Proceeding to terminate parental rights pending
2 adoption; hearing; grounds; dismissal of petition; judgment.--
3 (1) HEARING.--The court may terminate parental rights
4 pending adoption only after a full evidentiary hearing.
5 (2) HEARING PREREQUISITES.--The court may hold the
6 hearing only when:
7 (a) For each person whose consent to adoption is
8 required under s. 63.062:
9 1. A consent under s. 63.082 has been executed and
10 filed with the court;
11 2. An affidavit of nonpaternity under s. 63.082 has
12 been executed and filed with the court; or
13 3. Notice has been provided under ss. 63.087 and
14 63.088;
15 (b) For each notice and petition that must be served
16 under ss. 63.087 and 63.088:
17 1. At least 30 days have elapsed since the date of
18 personal service and an affidavit of service has been filed
19 with the court;
20 2. At least 60 days have elapsed since the first date
21 of publication of constructive service and an affidavit of
22 service has been filed with the court; or
23 3. An affidavit of nonpaternity which affirmatively
24 waives service has been executed and filed with the court;
25 (c) The minor named in the petition has been born; and
26 (d) The petition contains all information required
27 under s. 63.087 and all affidavits of inquiry, diligent
28 search, and service required under s. 63.088 have been
29 obtained and filed with the court.
30 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
31 ADOPTION.--The court may enter a judgment terminating parental

1 rights pending adoption if the court determines by clear and
2 convincing evidence, supported by written findings of fact,
3 that each person whose consent to adoption is required under
4 s. 63.062:

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

8 (b) Has executed an affidavit of nonpaternity and the
9 affidavit was obtained according to the requirements of this
10 chapter;

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

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

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

23 (f) Is a person who has legal custody of the person to
24 be adopted, other than a parent, who has failed to respond in
25 writing to a request for consent for a period of 60 days or,
26 after examination of his or her written reasons for
27 withholding consent, is found by the court to be withholding
28 his or her consent unreasonably;

29 (g) Has been properly served notice of the proceeding
30 in accordance with the requirements of this chapter, but whom
31 the court finds, after examining written reasons for the

1 withholding of consent, to be unreasonably withholding his or
2 her consent; or

3 (h) Is the spouse of the person to be adopted who has
4 failed to consent, and the failure of the spouse to consent to
5 the adoption is excused by reason of prolonged and unexplained
6 absence, unavailability, incapacity, or circumstances that are
7 found by the court to constitute unreasonable withholding of
8 consent.

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

15 (a) In making a determination of abandonment at a
16 hearing for termination of parental rights pursuant to this
17 chapter, the court must consider, among other relevant factors
18 not inconsistent with this section:

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

22 2. Whether other persons prevented the person alleged
23 to have abandoned the child from making the efforts referenced
24 in this subsection;

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

29 4. Whether the person alleged to have abandoned the
30 child, while being able, refused to pay for medical treatment
31 when such payment was requested by the person having legal

1 custody of the child and those expenses were not covered by
2 insurance or other available sources;

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

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

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

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

23 2. The incarcerated parent has been determined by the
24 court to be a violent career criminal as defined in s.
25 775.084, a habitual violent felony offender as defined in s.
26 775.084, convicted of child abuse as defined in s. 827.03, or
27 a sexual predator as defined in s. 775.21; has been convicted
28 of first degree or second degree murder in violation of s.
29 782.04 or a sexual battery that constitutes a capital, life,
30 or first degree felony violation of s. 794.011; or has been
31 convicted of an offense in another jurisdiction which is

1 substantially similar to one of the offenses listed in this
2 paragraph. As used in this section, the term "substantially
3 similar offense" means any offense that is substantially
4 similar in elements and penalties to one of those listed in
5 this paragraph, and that is in violation of a law of any other
6 jurisdiction, whether that of another state, the District of
7 Columbia, the United States or any possession or territory
8 thereof, or any foreign jurisdiction; or

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

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

21 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
22 court does not find by clear and convincing evidence that
23 parental rights of a parent should be terminated pending
24 adoption, the court must dismiss the petition with prejudice
25 and that parent's parental rights that were the subject of
26 such petition remain in full force under the law. The order
27 must include written findings in support of the dismissal,
28 including findings as to the criteria in subsection (4) if
29 rejecting a claim of abandonment. Parental rights may not be
30 terminated based upon a consent that the court finds has been
31 timely withdrawn under s. 63.082 or a consent to adoption or

1 affidavit of nonpaternity that the court finds was obtained by
2 fraud or under duress. The court must enter an order based
3 upon written findings providing for the placement of the
4 minor. The court may order scientific testing to determine the
5 paternity of the minor at any time during which the court has
6 jurisdiction over the minor. Further proceedings, if any,
7 regarding the minor must be brought in a separate custody
8 action under chapter 61, a dependency action under chapter 39,
9 or a paternity action under chapter 742.

10 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
11 ADOPTION.--

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

15 (b) Within 24 hours after filing, the clerk of the
16 court shall mail a copy of the judgment to the department, the
17 petitioner, those persons required to give consent under s.
18 63.062, and the respondent. The clerk shall execute a
19 certificate of each mailing.

20 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
21 RIGHTS.--

22 (a) A judgment terminating parental rights pending
23 adoption is voidable and any later judgment of adoption of
24 that minor is voidable if, upon the motion of a parent, the
25 court finds that a person knowingly gave false information
26 that prevented the parent from timely making known his or her
27 desire to assume parental responsibilities toward the minor or
28 meeting the requirements under this chapter to exercise his or
29 her parental rights. A motion under this subsection must be
30 filed with the court originally entering the judgment. The
31 motion must be filed within a reasonable time, but not later

1 than 2 years after the entry of the judgment terminating
2 parental rights.

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

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

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

28 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
29 records pertaining to a petition to terminate parental rights
30 pending adoption are related to the subsequent adoption of the
31 minor and are subject to the provisions of s. 63.162. The

1 confidentiality provisions of this chapter do not apply to the
2 extent information regarding persons or proceedings must be
3 made available as specified under s. 63.088.

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

6 63.092 Report to the court of intended placement by an
7 adoption entity; at-risk placement intermediary; preliminary
8 study.--

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

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

25 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the
26 minor in the intended adoptive home, a preliminary home study
27 must be performed by a licensed child-placing agency, a
28 licensed professional, or agency described in s. 61.20(2),
29 unless the petitioner is a stepparent, a spouse of the birth
30 parent, or a relative. The preliminary study shall be
31 completed within 30 days after the receipt by the court of the

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

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

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

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

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

11
12 If the preliminary home study is favorable, a minor may be
13 placed in the home pending entry of the judgment of adoption.
14 A minor may not be placed in the home if the preliminary home
15 study is unfavorable. If the preliminary home study is
16 unfavorable, the adoption entity intermediary or petitioner
17 may, within 20 days after receipt of a copy of the written
18 recommendation, petition the court to determine the
19 suitability of the intended adoptive home. A determination as
20 to suitability under this subsection does not act as a
21 presumption of suitability at the final hearing. In
22 determining the suitability of the intended adoptive home, the
23 court must consider the totality of the circumstances in the
24 home.

25 Section 19. Section 63.097, Florida Statutes, is
26 amended to read:

27 63.097 Fees.--

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

31 (a) Foster care expenses;

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

2 and

3 (c) Agency facility and administrative costs.

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

7 (a) Reasonable living expenses of the birth mother
8 which the birth mother is unable to pay due to unemployment,
9 underemployment, or disability due to the pregnancy which is
10 certified by a medical professional who has examined the birth
11 mother, or any other disability defined in s. 110.215.

12 Reasonable living expenses are rent, utilities, basic
13 telephone service, food, necessary clothing, transportation,
14 and expenses found by the court to be necessary for the health
15 of the unborn child.

16 (b) Reasonable and necessary medical expenses.

17 (c) Expenses necessary to comply with the requirements
18 of this chapter, including, but not limited to, service of
19 process under s. 63.088, a diligent search under s. 63.088, a
20 preliminary home study under s. 63.092, and a final home
21 investigation under s. 63.125.

22 (d) Court filing expenses, court costs, and other
23 litigation expenses.

24 (e) Costs associated with advertising under s.
25 63.212(1)(g).

26 (f) The following professional fees:

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

30 2. A reasonable hourly fee for contact with the parent
31 related to the adoption. In determining a reasonable hourly

1 fee under this subparagraph, the court must consider if the
2 tasks done were clerical or of such a nature that the matter
3 could have been handled by support staff at a lesser rate than
4 the rate for legal representation charged under subparagraph
5 1. Such tasks specifically do not include obtaining a parent's
6 signature on any document; such tasks include, but need not be
7 limited to, transportation, transmitting funds, arranging
8 appointments, and securing accommodations.

9 3. A reasonable hourly fee for counseling services
10 provided to a parent or a prospective adoptive parent by a
11 psychologist licensed under chapter 490 or a clinical social
12 worker, marriage and family therapist, or mental health
13 counselor licensed under chapter 491, or a counselor who is
14 employed by an adoption entity accredited by the Council on
15 Accreditation of Services for Children and Families to provide
16 pregnancy counseling and supportive services.

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

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

21 (b) \$500 in court costs;

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

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

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

31

1 (5) The following fees, costs, and expenses are
2 prohibited:

3 (a) Any fee or expense that constitutes payment for
4 locating a minor for adoption.

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

8 (c) Any fee on the affidavit which does not specify
9 the service that was provided and for which the fee is being
10 charged, such as a fee for facilitation, acquisition, or other
11 similar service, or which does not identify the date the
12 service was provided, the time required to provide the
13 service, the person or entity providing the service, and the
14 hourly fee charged.

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

22 ~~(2) FEES FOR AGENCIES OR THE DEPARTMENT.--Unless~~
23 otherwise indicated in this section, when an adoption entity
24 intermediary uses the services of a licensed child-placing
25 agency, a professional, any other person or agency pursuant to
26 s. 63.092, or, if necessary, the department, the person
27 seeking to adopt the child must pay the licensed child-placing
28 agency, professional, other person or agency, or the
29 department an amount equal to the cost of all services
30 performed, including, but not limited to, the cost of
31 conducting the preliminary home study, counseling, and the

1 final home investigation. The court, upon a finding that the
2 person seeking to adopt the child is financially unable to pay
3 that amount, may order that such person pay a lesser amount.

4 Section 20. Section 63.102, Florida Statutes, is
5 amended to read:

6 63.102 Filing of petition for adoption or declaratory
7 statement; venue; proceeding for approval of fees and costs.--

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

22 (2) A petition for adoption or for a declaratory
23 statement as to the adoption contract shall be filed in the
24 county where the petition for termination of parental rights
25 was granted, unless the court in accordance with s. 47.122,
26 changes the venue to the county where the petitioner or
27 petitioners or the minor child resides or where the agency or
28 adoption entity with in which the minor child has been placed
29 is located. The circuit court in this state must retain
30 jurisdiction over the matter until a final judgment is entered
31 on the adoption. The Uniform Child Custody Jurisdiction Act

1 does not apply until a final judgment is entered on the
2 adoption.

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

13 (4) If the filing of the petition for adoption or for
14 a declaratory statement as to the adoption contract in the
15 county where the petitioner or minor child resides would tend
16 to endanger the privacy of the petitioner or minor child, the
17 petition for adoption may be filed in a different county,
18 provided the substantive rights of any person will not thereby
19 be affected.

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

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

28 (b) A contract for the payment of fees, costs, and
29 expenses permitted under this chapter must be in writing, and
30 any person who enters into the contract has 3 business days in
31 which to cancel the contract. To cancel the contract, the

1 person must notify the adoption entity in writing by certified
2 United States mail, return receipt requested, no later than 3
3 business days after signing the contract. For the purposes of
4 this subsection, the term "business day" means a day on which
5 the United States Postal Service accepts certified mail for
6 delivery. If the contract is canceled within the first 3
7 business days, the person who cancels the contract does not
8 owe any legal, intermediary, or other fees, but may be
9 responsible for the adoption entity's actual costs during that
10 time.

11 (c) The court may grant prior approval only of fees
12 and expenses permitted under s. 63.097. A prior approval of
13 prospective fees and costs does not create a presumption that
14 these items will subsequently be approved by the court under
15 s. 63.132. The court, under s. 63.132, may order an adoption
16 entity to refund any amount paid under this subsection that is
17 subsequently found by the court to be greater than fees,
18 costs, and expenses actually incurred.

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

23 (e) A petition for adoption filed under this section
24 may be consolidated with a previously filed petition for a
25 declaratory statement. Only one filing fee may be assessed for
26 both the adoption and declaratory-statement petitions.

27 (f) Prior approval of fees and costs by the court does
28 not obligate the parent to ultimately relinquish the minor for
29 adoption.~~If a petition for adoption is subsequently filed,~~
30 ~~the petition for declaratory statement and the petition for~~
31 ~~adoption must be consolidated into one case.~~

1 Section 21. Section 63.112, Florida Statutes, is
2 amended to read:

3 63.112 Petition for adoption; description; report or
4 recommendation, exceptions; mailing.--

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

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

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

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

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

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

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

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

24 (h) The case style and date of entry of the judgment
25 terminating parental rights or the judgment declaring a minor
26 available for adoption ~~name and address, if known, of any~~
27 ~~person whose consent to the adoption is required, but who has~~
28 ~~not consented, and facts or circumstances that excuse the lack~~
29 ~~of consent; and~~

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

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

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

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

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

13 1. ~~The birth mother, if parental rights have not been~~
14 ~~terminated;~~

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

17 3. ~~the~~ minor child, if older than 12 years of age,
18 unless the court, in the best interest of the minor child,
19 dispenses with the minor's ~~child's~~ consent under s.
20 63.062(1)(f)~~63.062(1)(c)~~.

21
22 ~~The court may waive the requirement for an interview with the~~
23 ~~birth mother or birth father in the investigation for good~~
24 ~~cause shown.~~

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

29 (4) The clerk of the court shall mail a copy of the
30 petition within 24 hours after filing, and execute a
31

1 certificate of mailing, to the adoption entity ~~department and~~
2 ~~the agency~~ placing the minor, if any.

3 Section 22. Section 63.122, Florida Statutes, is
4 amended to read:

5 63.122 Notice of hearing on petition.--

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

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

20 (3) Upon a showing by the petitioner that the privacy
21 of the petitioner or minor ~~child~~ may be endangered, the court
22 may order the names of the petitioner or minor ~~child~~, or both,
23 to be deleted from the notice of hearing and from the copy of
24 the petition attached thereto, provided the substantive rights
25 of any person will not thereby be affected.

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

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

30 ~~(b) The intermediary.~~

31

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

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

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

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

13 63.125 Final home investigation.--

14 (1) The final home investigation must be conducted
15 before the adoption becomes final. The investigation may be
16 conducted by a licensed child-placing agency or a professional
17 in the same manner as provided in s. 63.092 to ascertain
18 whether the adoptive home is a suitable home for the minor and
19 whether the proposed adoption is in the best interest of the
20 minor. Unless directed by the court, an investigation and
21 recommendation are not required if the petitioner is a
22 stepparent or if the minor child is related to one of the
23 adoptive parents within the third degree of consanguinity.
24 The department is required to perform the home investigation
25 only if there is no licensed child-placing agency or
26 professional pursuant to s. 63.092 in the county in which the
27 prospective adoptive parent resides.

28 (2) The department, the licensed child-placing agency,
29 or the professional that performs the investigation must file
30 a written report of the investigation with the court and the
31

1 petitioner within 90 days after the date the petition is
2 filed.

3 (3) The report of the investigation must contain an
4 evaluation of the placement with a recommendation on the
5 granting of the petition for adoption and any other
6 information the court requires regarding the petitioner or the
7 minor.

8 (4) The department, the licensed child-placing agency,
9 or the professional making the required investigation may
10 request other state agencies or child-placing agencies within
11 or outside this state to make investigations of designated
12 parts of the inquiry and to make a written report to the
13 department, the professional, or other person or agency.

14 (5) The final home investigation must include:

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

16 (b) After the minor child is placed in the intended
17 adoptive home, two scheduled visits with the minor child and
18 the minor's child's adoptive parent or parents, one of which
19 visits must be in the home, to determine the suitability of
20 the placement.

21 (c) The family social and medical history as provided
22 in s. 63.082.

23 (d) Any other information relevant to the suitability
24 of the intended adoptive home.

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

27 Section 24. Section 63.132, Florida Statutes, is
28 amended to read:

29 63.132 Affidavit Report of expenses ~~expenditures~~ and
30 receipts.--

31

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

5 (a) The affidavit must be signed by the adoption
6 entity and the prospective adoptive parents. A copy of the
7 affidavit must be provided to the adoptive parents at the time
8 the affidavit is executed.

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

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

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

- 26 1. ~~(a)~~ The birth of the minor.
27 2. ~~(b)~~ The placement of the minor with the petitioner.
28 3. ~~(c)~~ The medical or hospital care received by the
29 mother or by the minor during the mother's prenatal care and
30 confinement.

31

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

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

8
9 The affidavit must state whether any of these expenses were
10 paid for by collateral sources, including, but not limited to,
11 health insurance, Medicaid, Medicare, or public assistance.

12 (2) The court may require such additional information
13 as is deemed necessary.

14 (3) The court must issue a separate order approving or
15 disapproving the fees, costs, and expenses itemized in the
16 affidavit. The court may approve only fees, costs, and
17 expenditures allowed under s. 63.097. The court may reject in
18 whole or in part any fee, cost, or expenditure listed if the
19 court finds that the expense is:

20 (a) Contrary to this chapter;

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

23 (c) Not a reasonable fee or expense, considering the
24 requirements of this chapter and the totality of the
25 circumstances.

26 (4)(3) This section does not apply to an adoption by a
27 stepparent whose spouse is a ~~natural or adoptive~~ parent of the
28 child.

29 Section 25. Section 63.142, Florida Statutes, is
30 amended to read:

31 63.142 Hearing; judgment of adoption.--

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

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

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

7 (2) CONTINUANCE.--The court may continue the hearing
8 from time to time to permit further observation,
9 investigation, or consideration of any facts or circumstances
10 affecting the granting of the petition.

11 (3) DISMISSAL.--

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

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

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

24 (a) A judgment terminating parental rights pending
25 adoption is voidable and any later judgment of adoption of
26 that minor is voidable if, upon a motion to set aside of a
27 parent, the court finds that any person knowingly gave false
28 information that prevented the parent from timely making known
29 his or her desire to assume parental responsibilities toward
30 the minor or meeting the requirements under this chapter to
31 exercise his or her parental rights. A motion under this

1 paragraph must be filed with the court that entered the
2 original judgment. The motion must be filed within a
3 reasonable time, but not later than 2 years after the date the
4 judgment terminating parental rights was entered.

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

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

27 (d) Except upon good cause shown, no later than 45
28 days after the preliminary hearing, the court must conduct a
29 final hearing on the motion to set aside the judgment and
30 issue its written order as expeditiously as possible
31 thereafter.

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

3 63.162 Hearings and records in adoption proceedings;
4 confidential nature.--

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

1 inspecting and copying any official record pertaining to the
2 adoption that is maintained by that agency.

3 Section 27. Section 63.165, Florida Statutes, is
4 amended to read:

5 63.165 State registry of adoption information; duty to
6 inform and explain.--Notwithstanding any other law to the
7 contrary, the department shall maintain a registry with the
8 last known names and addresses of an adoptee and his or her
9 ~~natural~~ parents whose consent was required under s. 63.062,
10 and adoptive parents and any other identifying information
11 that which the adoptee, ~~natural~~ parents whose consent was
12 required under s. 63.062, or adoptive parents desire to
13 include in the registry. The department shall maintain the
14 registry records for the time required by rules adopted by the
15 department in accordance with this chapter or for 99 years,
16 whichever period is greater.The registry shall be open with
17 respect to all adoptions in the state, regardless of when they
18 took place. The registry shall be available for those persons
19 choosing to enter information therein, but no one shall be
20 required to do so.

21 (1) Anyone seeking to enter, change, or use
22 information in the registry, or any agent of such person,
23 shall present verification of his or her identity and, if
24 applicable, his or her authority. A person who enters
25 information in the registry shall be required to indicate
26 clearly the persons to whom he or she is consenting to release
27 this information, which persons shall be limited to the
28 adoptee and the birth ~~natural~~ mother, ~~natural~~ father whose
29 consent was required under s. 63.062, adoptive mother,
30 adoptive father, birth ~~natural~~ siblings, and maternal and
31 paternal birth ~~natural~~ grandparents of the adoptee. Except as

1 provided in this section, information in the registry is
2 confidential and exempt from ~~the provisions of~~ s. 119.07(1).
3 Consent to the release of this information may be made in the
4 case of a minor adoptee by his or her adoptive parents or by
5 the court after a showing of good cause. At any time, any
6 person may withdraw, limit, or otherwise restrict consent to
7 release information by notifying the department in writing.

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

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

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

25 (Substantial rewording of section. See
26 s. 63.182, F.S., for present text.)
27 63.182 Statute of repose.--Notwithstanding s. 95.031
28 or s. 95.11 or any other statute:

29 (1) An action or proceeding of any kind to vacate, set
30 aside, or otherwise nullify a judgment of adoption or an
31 underlying judgment terminating parental rights on any ground,

1 including duress but excluding fraud, shall in no event be
2 filed more than 1 year after entry of the judgment terminating
3 parental rights.

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

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

11 63.202 Authority to license; adoption of rules.--

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

15 Section 30. Section 63.207, Florida Statutes, is
16 amended to read:

17 63.207 Out-of-state placement.--

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

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

28 (b) Place or attempt to place a minor ~~child~~ for the
29 purpose of adoption with a family who primarily lives and
30 works outside Florida in another state. ~~An intermediary may~~
31 ~~place or attempt to place a child for adoption in another~~

1 ~~state only if the child is a special needs child as that term~~
2 ~~is defined in s. 409.166.~~ If an adoption entity intermediary
3 is acting under this subsection, the adoption entity must
4 ~~intermediary shall~~ file a petition for declaratory statement
5 pursuant to s. 63.102 for prior approval of fees and costs.
6 The court shall review the costs pursuant to s. 63.097. The
7 petition for declaratory statement must be converted to a
8 petition for an adoption upon placement of the minor child in
9 the home. The circuit court in this state must retain
10 jurisdiction over the matter until the adoption becomes final.
11 The prospective adoptive parents must come to this state to
12 have the adoption finalized. Violation of the order subjects
13 the adoption entity intermediary to contempt of court and to
14 the penalties provided in s. 63.212.

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

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

24 Section 31. Section 63.212, Florida Statutes, is
25 amended to read:

26 63.212 Prohibited acts; penalties for violation;
27 preplanned adoption agreement.--

28 (1) It is unlawful for any person:

29 (a) ~~Except the department, an intermediary, or an~~
30 ~~agency,~~To place or attempt to place a minor child for
31 adoption with a person who primarily lives and works outside

1 this state unless the minor child is placed with a relative
2 within the third degree or with a stepparent. ~~An intermediary~~
3 ~~may place or attempt to place a special needs child for~~
4 ~~adoption with a person who primarily lives and works outside~~
5 ~~this state only if the intermediary has a declaratory~~
6 ~~statement from the court establishing the fees to be paid.~~
7 This requirement does not apply if the minor child is placed
8 by an adoption entity in accordance with s. 63.207 ~~with a~~
9 ~~relative within the third degree or with a stepparent.~~

10 ~~(b) Except the department, an intermediary, or an~~
11 ~~agency, to place or attempt to place a child for adoption with~~
12 ~~a family whose primary residence and place of employment is in~~
13 ~~another state unless the child is placed with a relative~~
14 ~~within the third degree or with a stepparent. An intermediary~~
15 ~~may place or attempt to place a special needs child for~~
16 ~~adoption with a family whose primary residence and place of~~
17 ~~employment is in another state only if the intermediary has a~~
18 ~~declaratory statement from the court establishing the fees to~~
19 ~~be paid. This requirement does not apply if the child is~~
20 ~~placed with a relative within the third degree or with a~~
21 ~~stepparent.~~

22 ~~(b)(c) Except an adoption entity the Department of~~
23 ~~Children and Family Services, an agency, or an intermediary,~~
24 ~~to place or attempt to place within the state a minor child~~
25 ~~for adoption unless the minor child is placed with a relative~~
26 ~~within the third degree or with a stepparent. This~~
27 ~~prohibition, however, does not apply to a person who is~~
28 ~~placing or attempting to place a minor child for the purpose~~
29 ~~of adoption with the adoption entity Department of Children~~
30 ~~and Family Services or an agency or through an intermediary.~~

31

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

17 (d)~~(e)~~ Having the rights and duties of a parent with
18 respect to the care and custody of a minor to assign or
19 transfer such parental rights for the purpose of, incidental
20 to, or otherwise connected with, selling or offering to sell
21 such rights and duties.

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

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

29 (g)~~(h)~~ Except an adoption entity ~~the Department of~~
30 ~~Children and Family Services, an agency, or an intermediary~~,
31 to advertise or offer to the public, in any way, by any medium

1 whatever that a minor ~~child~~ is available for adoption or that
2 a minor ~~child~~ is sought for adoption; and, further, it is
3 unlawful for any person to publish or broadcast any such
4 advertisement without including a Florida license number of
5 the agency or, ~~attorney, or physician~~ placing the
6 advertisement.

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

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

27 a. Effect final transfer of custody of a child or
28 final adoption of a child, without review and approval of the
29 department and the court, and without compliance with other
30 applicable provisions of law.

31

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

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

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

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

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

30 d. That an intended father who is also the biological
31 father acknowledges that he is aware that he will assume

1 parental rights and responsibilities for the child as
2 otherwise provided by law for a father, if the agreement is
3 terminated for any reason by any party before final transfer
4 of custody is completed or if the planned adoption is not
5 approved by the court pursuant to the Florida Adoption Act.

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

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

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

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

26 i. That the agreement may be terminated at any time by
27 any of the parties.

28 3. A preplanned adoption agreement shall not contain
29 any provision:

30 a. To reduce any amount paid to the volunteer mother
31 if the child is stillborn or is born alive but impaired, or to

1 provide for the payment of a supplement or bonus for any
2 reason.

3 b. Requiring the termination of the volunteer mother's
4 pregnancy.

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

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

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

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

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

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

30 d. "Intended father" means a male who, as evidenced by
31 a preplanned adoption agreement, intends to have the parental

1 rights and responsibilities for a child conceived through a
2 fertility technique, regardless of whether the child is
3 biologically related to the male.

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

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

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

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

29 i. "Volunteer mother" means a female person at least
30 18 years of age who voluntarily agrees, subject to a right of
31 rescission, that if she should become pregnant pursuant to a

1 preplanned adoption arrangement, she will terminate in favor
2 of the intended father and intended mother her parental rights
3 and responsibilities to the child.

4 (2)(a) It is unlawful for any person under this
5 chapter to:

6 1. Knowingly provide false information;

7 2. Knowingly withhold material information; or

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

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

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

24 (3)(2) This section does not ~~Nothing herein shall be~~
25 ~~construed to prohibit~~ an adoption entity a licensed
26 ~~child-placing agency~~ from charging fees permitted under this
27 chapter and reasonably commensurate to the services provided.

28 (4)(3) It is unlawful for any adoption entity
29 ~~intermediary~~ to fail to report to the court, prior to
30 placement, the intended placement of a minor child for
31 purposes of adoption with any person not a stepparent or a

1 relative within the third degree, if the adoption entity
2 ~~intermediary~~ participates in such intended placement.

3 ~~(5)(4)~~ It is unlawful for any adoption entity
4 ~~intermediary~~ to charge any fee except those fees permitted
5 under s. 63.097 and approved under s. 63.102 ~~over \$1,000 and~~
6 ~~those costs as set out in paragraph (1)(d) over \$2,500, other~~
7 ~~than for actual documented medical costs, court costs, and~~
8 ~~hospital costs unless such fee is approved by the court prior~~
9 ~~to the assessment of the fee by the intermediary and upon a~~
10 ~~showing of justification for the larger fee.~~

11 ~~(6)(5)~~ It is unlawful for any adoption entity
12 ~~intermediary~~ to counsel a birth mother to leave the state for
13 the purpose of giving birth to a child outside the state in
14 order to secure a fee in excess of that permitted under s.
15 63.097 when it is the intention that the child be placed for
16 adoption outside the state.

17 ~~(7)(6)~~ It is unlawful for any adoption entity
18 ~~intermediary~~ to obtain a preliminary home study or final home
19 investigation and fail to disclose the existence of the study
20 or investigation to the court.

21 ~~(8)(7)~~ Unless otherwise indicated, a person who
22 violates any provision of this section, excluding paragraph
23 (1)(g)(h), commits ~~is guilty of~~ a felony of the third degree,
24 punishable as provided in s. 775.082, s. 775.083, or s.
25 775.084. A person who violates paragraph (1)(g)(h) commits ~~is~~
26 ~~guilty of~~ a misdemeanor of the second degree, punishable as
27 provided in s. 775.083; and each day of continuing violation
28 shall be considered a separate offense.

29 Section 32. Section 63.219, Florida Statutes, is
30 amended to read:
31

1 63.219 Sanctions.--Upon a finding by the court that an
2 adoption entity intermediary or agency has violated any
3 provision of this chapter, the court is authorized to prohibit
4 the adoption entity intermediary or agency from placing a
5 minor for adoption in the future.

6 Section 33. Section 63.2325, Florida Statutes, is
7 created to read:

8 63.2325 Conditions for revocation of a consent to
9 adoption or affidavit of nonpaternity.--Notwithstanding the
10 requirements of this chapter, a failure to meet any of those
11 requirements does not constitute grounds for revocation of a
12 consent to adoption or affidavit or nonpaternity unless the
13 extent and circumstances of such a failure result in a
14 material failure of fundamental fairness in the administration
15 of due process, or the failure constitutes or contributes to
16 fraud or duress in obtaining a consent to adoption or
17 affidavit of nonpaternity.

18 Section 34. Subsection (39) of section 984.03, Florida
19 Statutes, is amended to read:

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

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

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1 Section 35. Subsection (40) of section 985.03, Florida
2 Statutes, is amended to read:

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

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

14 Section 36. Section 63.072, Florida Statutes, is
15 repealed.

16 Section 37. Any petition for adoption filed before
17 October 1, 2001, shall be governed by the law in effect at the
18 time the petition was filed.

19 Section 38. 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 39. This act shall take effect October 1,
26 2001.

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SENATE SUMMARY

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