

By the Committee on Judiciary and Senators Campbell, Latvala
and Sebesta

308-679-01

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. 63.202, F.S.;
12 conforming provisions relating to agencies
13 authorized to place minors for adoption;
14 amending s. 63.207, F.S.; revising provisions
15 that limit the placement of a minor in another
16 state for adoption; amending s. 63.212, F.S.;
17 revising provisions relating to prohibitions
18 and penalties with respect to adoptions;
19 amending s. 63.219, F.S.; conforming provisions
20 relating to sanctions; creating s. 63.2325,
21 F.S.; providing conditions for revocation of a
22 consent to adoption or affidavit of
23 nonpaternity; amending ss. 984.03, 985.03,
24 F.S.; conforming cross-references; repealing s.
25 63.072, F.S., relating to persons who may waive
26 required consent to an adoption; requiring that
27 a petition for adoption be governed by the law
28 in effect at the time the petition is filed;
29 providing for severability; providing an
30 effective date.
31

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Section 39.703, Florida Statutes, is
4 amended to read:

5 39.703 Initiation of termination of parental rights
6 proceedings; judicial review.--

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

26 (2) If, at the time of the 12-month judicial review
27 hearing, a child is not returned to the physical custody of
28 the parents, the department ~~social service agency~~ shall
29 initiate termination of parental rights proceedings under this
30 chapter within 30 days. Only if the court finds that the
31 situation of the child is so extraordinary and that the best

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

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

22 39.802 Petition for termination of parental rights;
23 filing; elements.--

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

31

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

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

8 39.806 Grounds for termination of parental rights.--

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

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

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

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

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

31

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

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

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

16 2. The incarcerated parent has been determined by the
17 court to be a violent career criminal as defined in s.
18 775.084, a habitual violent felony offender as defined in s.
19 775.084, or a sexual predator as defined in s. 775.21; has
20 been convicted of first degree or second degree murder in
21 violation of s. 782.04 or a sexual battery that constitutes a
22 capital, life, or first degree felony violation of s. 794.011;
23 or has been convicted of an offense in another jurisdiction
24 which is substantially similar to one of the offenses listed
25 in this paragraph. As used in this section, the term
26 "substantially similar offense" means any offense that is
27 substantially similar in elements and penalties to one of
28 those listed in this paragraph, and that is in violation of a
29 law of any other jurisdiction, whether that of another state,
30 the District of Columbia, the United States or any possession
31 or territory thereof, or any foreign jurisdiction; or

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

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

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

29 1. As used in this subsection, the term "sibling"
30 means another child who resides with or is cared for by the
31

1 parent or parents regardless of whether the child is related
2 legally or by consanguinity.

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

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

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

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

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

24 39.811 Powers of disposition; order of disposition.--

25 (2) If the child is in the custody of the department
26 and the court finds that the grounds for termination of
27 parental rights have been established by clear and convincing
28 evidence, the court shall, by order, place the child in the
29 custody of the department ~~or a licensed child-placing agency~~
30 for the purpose of adoption.

31

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

15 Section 5. Section 39.812, Florida Statutes, is
16 amended to read:

17 39.812 Postdisposition relief; petition for
18 adoption.--

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

30 (2) In any subsequent adoption proceeding, the parents
31 are ~~shall not be~~ entitled to ~~any~~ notice of the proceeding and

1 ~~are not thereof, nor shall they be~~ entitled to knowledge at
2 any time after the order terminating parental rights is
3 entered of the whereabouts of the child or of the identity or
4 location of any person having the custody of or having adopted
5 the child, except as provided by order of the court pursuant
6 to this chapter or chapter 63.7 ~~and~~ In any habeas corpus or
7 other proceeding involving the child brought by any parent of
8 the child, an ~~no~~ agent or contract provider of the ~~licensed~~
9 ~~child-placing agency or department~~ may not shall be compelled
10 to divulge that information, but may be compelled to produce
11 the child before a court of competent jurisdiction if the
12 child is still subject to the guardianship of the ~~licensed~~
13 ~~child-placing agency or department~~.

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

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

31

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

15 Section 6. Section 63.022, Florida Statutes, is
16 amended to read:

17 63.022 Legislative intent.--

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

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

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

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

29 (c) The required social studies are completed and the
30 court considers the reports of these studies prior to judgment
31 on adoption petitions.

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

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

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

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

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

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

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

27 (k) The ~~birth~~ parent, the prospective adoptive parent,
28 and the minor child receive at a minimum ~~the same or similar~~
29 safeguards, guidance, counseling, and supervision required in
30 this chapter ~~an intermediary adoption as they receive in an~~
31 ~~agency or department adoption~~.

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

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

11 Section 7. Section 63.032, Florida Statutes, is
12 amended to read:

13 63.032 Definitions.--As used in this chapter act,
14 ~~unless the context otherwise requires~~, the term:

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

28 (2)~~(10)~~ "Adoption" means the act of creating the legal
29 relationship between parent and child where it did not exist,
30 thereby declaring the child to be legally the child of the
31 adoptive parents and their heir at law and entitled to all the

1 rights and privileges and subject to all the obligations of a
2 child born to such adoptive parents in lawful wedlock.

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

6 (4)(5) "Adult" means a person who is not a minor.

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

10 (6)(2) "Child" means a son or daughter, whether by
11 birth or adoption.

12 (7)(3) "Court" means any circuit court of this state
13 and, when the context requires, the court of any state that is
14 empowered to grant petitions for adoption.

15 (8)(1) "Department" means the Department of Children
16 and Family Services.

17 (9)(8) "Intermediary" means an attorney ~~or physician~~
18 who is licensed or authorized to practice in this state and
19 who is placing or intends to place a child for adoption or,
20 for the purpose of adoptive placements of children from out of
21 state with citizens of this state, a child-placing agency
22 licensed in another state that is qualified by the department.

23 (10) "Legal custody" has the meaning ascribed in s.
24 39.01.

25 (11)(4) "Minor" means a person under the age of 18
26 years.

27 (12) "Parent" has the same meaning ascribed in s.
28 39.01.

29 (13)(6) "Person" includes a natural person,
30 corporation, government or governmental subdivision or agency,
31

1 business trust, estate, trust, partnership, or association,
2 and any other legal entity.

3 (14) "Relative" has the same meaning ascribed in s.
4 39.01.

5 (15)~~(9)~~ "To place" or "placement" means the process of
6 a person giving a child up for adoption and the prospective
7 parents receiving and adopting the child, and includes all
8 actions by any person or adoption entity ~~agency~~ participating
9 in the process.

10 (16)~~(13)~~ "Primarily lives and works outside Florida"
11 means anyone who does not meet the definition of "primary
12 residence and place of employment in Florida."

13 (17)~~(12)~~ "Primary residence and place of employment in
14 Florida" means a person lives and works in this state at least
15 6 months of the year and intends to do so for the foreseeable
16 future or military personnel who designate Florida as their
17 place of residence in accordance with the Soldiers' and
18 Sailors' Civil Relief Act of 1940 or employees of the United
19 States Department of State living in a foreign country who
20 designate Florida as their place of residence.

21 (18)~~(11)~~ "Suitability of the intended placement"
22 includes the fitness of the intended placement, with primary
23 consideration being given to the welfare of the child; the
24 fitness and capabilities of the adoptive parent or parents to
25 function as parent or parents for a particular child; any
26 familial relationship between the child and the prospective
27 placement;and the compatibility of the child with the home in
28 which the child is intended to be placed.

29 Section 8. Section 63.037, Florida Statutes, is
30 created to read:

31

1 63.037 Proceedings applicable to cases resulting from
2 a termination of parental rights under chapter 39.--A case in
3 which a minor becomes available for adoption after the
4 parental rights of each parent have been terminated by a
5 judgment entered pursuant to chapter 39 shall be governed by
6 s. 39.812 and this chapter. Adoption proceedings initiated
7 under chapter 39 are exempt from the following provisions of
8 this chapter: disclosure requirements for the adoption entity
9 provided in s. 63.085; general provisions governing
10 termination of parental rights pending adoption provided in s.
11 63.087; notice and service provisions governing termination of
12 parental rights pending adoption provided in s. 63.088; and
13 procedures for terminating parental rights pending adoption
14 provided in s. 63.089.

15 Section 9. Section 63.039, Florida Statutes, is
16 created to read:

17 63.039 Duty of adoption entity to prospective adoptive
18 parents; sanctions.--

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

26 (a) Provide written initial disclosure to the
27 prospective adoptive parent at the time and in the manner
28 required under s. 63.085.

29 (b) Provide written initial and postbirth disclosure
30 to the parent at the time and in the manner required under s.
31 63.085.

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

4 (d) When a written consent or affidavit of
5 nonpaternity for adoption is obtained, obtain a consent to
6 adoption or affidavit of nonpaternity that contains the
7 language required under s. 63.062 or s. 63.082.

8 (e) Include in the petition to terminate parental
9 rights pending adoption all information required under s.
10 63.087(6)(e) and (f).

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

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

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

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

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

1 fees and costs incurred by the prospective adoptive parents in
2 connection with the adoption and any litigation related to
3 placement or adoption of a minor. The court must award
4 reasonable attorney's fees and costs, if any, incurred by the
5 person whose consent or affidavit was obtained by fraud or
6 under duress. Any award under this subsection to the
7 prospective adoptive parents or to the person whose consent or
8 affidavit was obtained by fraud or under duress must be paid
9 directly to them by the adoption entity or by any applicable
10 insurance carrier on behalf of the adoption entity.

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

21 (4) The clerk of the court must forward to:

22 (a) The Florida Bar any order that imposes sanctions
23 under this section against an attorney acting as an adoption
24 entity;

25 (b) The Department of Children and Family Services any
26 order that imposes sanctions under this section against a
27 licensed child-placing agency or a child-placing agency
28 licensed in another state which is qualified by the
29 department; and

30 (c) The entity under s. 409.176(5) which certifies
31 child-caring agencies any order that imposes sanctions under

1 this section against a child-caring agency registered under s.
2 409.176.

3
4 The order must be forwarded within 30 days after the date that
5 the order was issued.

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

8 63.0425 Grandparent's right to adopt.--

9 (1) When a child who has lived with a grandparent for
10 at least 6 months is placed for adoption, the adoption entity
11 ~~agency or intermediary~~ handling the adoption shall notify that
12 grandparent of the impending adoption before the petition for
13 adoption is filed. If the grandparent petitions the court to
14 adopt the child, the court shall give first priority for
15 adoption to that grandparent.

16 Section 11. Section 63.052, Florida Statutes, is
17 amended to read:

18 63.052 Guardians designated; proof of commitment.--

19 (1) For minors who have been placed for adoption with
20 and permanently committed to an agency as defined in s. 63.032
21 or a child-caring agency registered under s. 409.176, ~~such the~~
22 agency shall be the guardian of the person of the minor child;
23 for those who have been placed for adoption with and
24 permanently committed to the department, the department shall
25 be the guardian of the person of the minor child.

26 (2) For minors who have been voluntarily surrendered
27 to an intermediary through an execution of consent to
28 adoption, the intermediary shall be responsible for the minor
29 ~~child~~ until the time a court orders preliminary approval of
30 placement of the minor child in the prospective adoptive home,
31 at which time the prospective adoptive parents become

1 guardians pending finalization of adoption. Until a court has
2 terminated parental rights pending adoption and has ordered
3 preliminary approval of placement of the minor in the adoptive
4 home, the minor must be placed in the care of a relative as
5 defined in s. 39.01, in foster care as defined in s. 39.01, or
6 in the care of a prospective adoptive home. No minor shall be
7 placed in a prospective adoptive home until that home has
8 received a favorable preliminary home study by a licensed
9 child-placing agency, a licensed professional, or an agency,
10 as provided in s. 63.092, within 1 year before such placement
11 in the prospective home. Temporary placement in the
12 prospective home with the prospective adoptive parents does
13 not give rise to a presumption that the parental rights of the
14 parents will subsequently be terminated.

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

31

1 (3) If a minor is surrendered to an intermediary for
2 subsequent adoption and a suitable prospective adoptive home
3 is not available pursuant to s. 63.092 at the time the minor
4 is surrendered to the intermediary or, if the minor is a
5 newborn admitted to a licensed hospital or birth center, at
6 the time the minor is discharged from the hospital or birth
7 center, the minor must be placed in foster care,~~the~~
8 ~~intermediary shall be responsible for the child until such a~~
9 suitable prospective adoptive home is available.

10 (4) If a minor child is voluntarily surrendered to an
11 adoption entity intermediary for subsequent adoption and the
12 adoption does not become final within 180 days, the adoption
13 entity intermediary must report to the court on the status of
14 the minor child and the court may at that time proceed under
15 s. 39.701 or take action reasonably necessary to protect the
16 best interest of the minor child.

17 (5) The recital in the written consent given by the
18 department that the minor child sought to be adopted has been
19 permanently committed to the department shall be prima facie
20 proof of such commitment. The recital in the written consent
21 given by a licensed child-placing agency or the declaration in
22 an answer or recommendation filed by a licensed child-placing
23 agency that the minor child has been permanently committed and
24 the child-placing agency is duly licensed by the department
25 shall be prima facie proof of such commitment and of such
26 license.

27 (6) Unless otherwise authorized by law, the department
28 is not responsible for expenses incurred by other adoption
29 entities licensed child-placing agencies or intermediaries
30 participating in placement of a minor child for the purposes
31 of adoption.

1 (7) The court retains jurisdiction of a minor who has
2 been placed for adoption until the adoption is final. After a
3 minor is placed with an adoption entity or prospective
4 adoptive parent, the court may review the status of the minor
5 and the progress toward permanent adoptive placement. As part
6 of this continuing jurisdiction, for good cause shown by a
7 person whose consent to an adoption is required under s.
8 63.062, the adoption entity, the parents, persons having legal
9 custody of the minor, persons with custodial or visitation
10 rights to the minor, persons entitled to notice pursuant to
11 the Uniform Child Custody Jurisdiction Act or the Indian Child
12 Welfare Act, or upon the court's own motion, the court may
13 review the appropriateness of the adoptive placement of the
14 minor.

15 Section 12. Section 63.062, Florida Statutes, is
16 amended to read:

17 63.062 Persons required to consent to adoption;
18 affidavit of nonpaternity; waiver of venue.--

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

25 (a) The mother of the minor.

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

27 1. The minor was conceived or born while the father
28 was married to the mother;~~-~~

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

30 3. The minor has been established by court proceeding
31 to be his child.

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

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

8 1.4. He Has acknowledged in writing, signed in the
9 presence of a competent witness, that he is the father of the
10 minor and has filed such acknowledgment with the Office of
11 Vital Statistics of the Department of Health;—

12 2.5. He Has provided, or has attempted to provide, the
13 child or the mother during her pregnancy with support in a
14 repetitive, customary manner; or—

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

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

22 (f)(e) The minor, if more than 12 years of age, unless
23 the court in the best interest of the minor dispenses with the
24 minor's consent.

25 (2) Any person whose consent is required under
26 paragraph (1)(c) or paragraph (1)(d) may execute an affidavit
27 of nonpaternity in lieu of a consent under this section and by
28 doing so waives notice to all court proceedings after the date
29 of execution. An affidavit of nonpaternity must be executed as
30 provided in s. 63.082. The person executing the affidavit must
31

1 receive disclosure under s. 63.085 prior to signing the
2 affidavit.

3 (3) A person who signs a consent to adoption or an
4 affidavit of nonpaternity must be given reasonable notice of
5 his or her right to select a person who does not have an
6 employment, professional, or personal relationship with the
7 adoption entity or the prospective adoptive parents to be
8 present when the consent to adoption or affidavit of
9 nonpaternity is executed and to sign the consent or affidavit
10 as a witness.

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

13
14 AFFIDAVIT OF NONPATERNITY

15
16 1. I have personal knowledge of the facts
17 stated in this affidavit.

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

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

27 4. With respect to the child referenced
28 in this affidavit, I have not provided the
29 birth mother with child support or prebirth
30 support; I have not provided her with prenatal
31 care or assisted her with medical expenses; I

1 have not provided the birth mother or her child
2 or unborn child with support of any kind, nor
3 do I intend to do so.

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

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

12 7. I have been told of my right to choose
13 a person who does not have an employment,
14 professional, or personal relationship with the
15 adoption entity or the prospective adoptive
16 parents to be present when this affidavit is
17 executed and to sign it as a witness.

18
19 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
20 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
21 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

22
23 ~~(5)(2)~~ The court may require that consent be executed
24 by:

25 (a) Any person lawfully entitled to custody of the
26 minor; or

27 (b) The court having jurisdiction to determine custody
28 of the minor, if the person having physical custody of the
29 minor has no authority to consent to the adoption.

30 ~~(6)(3)~~ The petitioner must make good faith and
31 diligent efforts as provided under s. 63.088 to notify, and

1 obtain written consent from, the persons required to consent
2 to adoption under this section ~~within 60 days after filing the~~
3 ~~petition. These efforts may include conducting interviews and~~
4 ~~record searches to locate those persons, including verifying~~
5 ~~information related to location of residence, employment,~~
6 ~~service in the Armed Forces, vehicle registration in this~~
7 ~~state, and corrections records.~~

8 (7)(4) If parental rights to the minor have previously
9 been terminated, a licensed child-placing agency, a
10 child-caring agency registered under s. 409.176, or the
11 department with which the minor ~~child~~ has been placed for
12 subsequent adoption may provide consent to the adoption. In
13 such case, no other consent is required.

14 (8)(5) A petition to adopt an adult may be granted if:

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

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

21 (9)(a) In cases involving a child younger than 6
22 months of age in which venue for the termination of parental
23 rights may be located in a county other than where the parent
24 whose rights are to be terminated resides, the adoption entity
25 must obtain, from any party executing an affidavit of
26 nonpaternity or consent, a waiver of venue, which must be
27 filed with the petition and must be in substantially the
28 following form:

29
30 WAIVER OF VENUE
31

1
2 I understand that I have the right to require
3 that the Petition to terminate my parental
4 rights be filed in the county where I reside. I
5 waive such right so that the Petition to
6 Terminate Parental Rights may be filed by
7 ...(adoption entity)... in ...(county name)...
8 county, Florida.

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

25
26 (b)1. The waiver of venue must be a separate document
27 containing no consents, disclosures, or other information
28 unrelated to venue.

29 2. Adoption entities must attach to the waiver of
30 venue a form that the parent whose rights are to be terminated
31 may use to request a transfer of venue for the proceeding.

1 This form must contain the intended caption of the action for
2 termination of parental rights and information identifying the
3 child which will be sufficient for the clerk to properly file
4 the form upon receipt.

5 3. This form must include a notice that if an adoption
6 entity knows that a parent whose rights will be terminated
7 intends to object to the termination but intentionally files
8 the petition for termination of parental rights in a county
9 which is not consistent with the required venue under such
10 circumstances, the adoption entity shall be responsible for
11 the attorney's fees of the parent contesting the transfer of
12 venue.

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

15 63.082 Execution of consent to adoption or affidavit
16 of nonpaternity; family social and medical history; withdrawal
17 of consent.--

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

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

23 (b) If by an agency, by affidavit from its authorized
24 representative.

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

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

29 (2) A consent that does not name or otherwise identify
30 the adopting parent is valid if the consent contains a
31 statement by the person consenting that the consent was

1 voluntarily executed and that identification of the adopting
2 parent is not required for granting the consent.

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

25 (b) Consent executed by ~~the department, by a licensed~~
26 ~~child-placing agency, or by~~ an appropriate order or
27 certificate of the court if executed under s. 63.062(5)(b)
28 must be attached to the petition to terminate parental rights
29 pending adoption and must be ~~accompanied by a family medical~~
30 ~~history that includes such information concerning the medical~~
31

1 ~~history of the child and the birth parents as is available or~~
2 ~~readily obtainable.~~

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

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

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

25 (c) When the minor to be adopted is not placed
26 pursuant to s. 63.052 upon the minor's release from a licensed
27 hospital or birth center following birth, the consent to
28 adoption may be executed at any time after the birth of the
29 minor. While such consent is valid upon execution, it is
30 subject to the 3-day revocation period under subsection (7) or
31 may be revoked at any time prior to the placement of the minor

1 with the prospective adoptive parents, whichever is later. If
2 a consent has been executed, this subsection may not be
3 construed to provide a birth parent with more than 3 days to
4 revoke that consent once the child has been placed with the
5 prospective adoptive parents. The revocation period provided
6 in this section does not apply in any case in which the
7 waiting period in s. 63.082(4)(b) applies.

8 (d) The consent to adoption or the affidavit of
9 nonpaternity must be signed ~~child~~, in the presence of two
10 witnesses, and be acknowledged before a notary public who is
11 not signing as one of the witnesses. The notary public must
12 legibly note on the consent or the affidavit the date and time
13 of execution. The witnesses' names must be typed or printed
14 underneath their signatures. The witnesses', ~~and their~~ home or
15 business addresses and social security numbers, driver's
16 license numbers, or state identification card numbers must be
17 included. The absence of a social security number, driver's
18 license number, or state identification card number shall not
19 be deemed to invalidate the consent. The person who signs the
20 consent or the affidavit has the right to have at least one of
21 the witnesses be an individual who does not have an
22 employment, professional, or personal relationship with the
23 adoption entity or the prospective adoptive parents. The
24 adoption entity must give reasonable notice to the person
25 signing the consent or affidavit of the right to select a
26 witness of his or her own choosing. The person who signs the
27 consent or affidavit must acknowledge in writing on the
28 consent or affidavit that such notice was given and indicate
29 the witness, if any, who was selected by the person signing
30 the consent or affidavit. The adoption entity must include its
31

1 name, address, and telephone number on the consent to adoption
2 or affidavit of nonpaternity.

3 (e) A consent to adoption must contain, in at least
4 16-point boldfaced type, an acknowledgment of the parent's
5 rights in substantially the following form:

6
7 CONSENT TO ADOPTION

8
9 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
10 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
11 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
12 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
13 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
14 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
15 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
16 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
17 OR WITNESSES YOU SELECTED, IF ANY.

18
19 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
20 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
21 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

- 22
23 1. CONSULT WITH AN ATTORNEY;
24 2. HOLD, CARE FOR, AND FEED THE CHILD;
25 3. PLACE THE CHILD IN FOSTER CARE OR WITH
26 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
27 WILLING TO CARE FOR THE CHILD;
28 4. TAKE THE CHILD HOME UNLESS OTHERWISE
29 LEGALLY PROHIBITED; AND
30
31

1 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
2 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
3 THROUGH WITH THE ADOPTION.
4
5 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
6 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID
7 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY
8 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A
9 CHILD WHO IS TO BE PLACED FOR ADOPTION WITH
10 IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON
11 THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
12 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD
13 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT
14 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE
15 TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS
16 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT
17 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO
18 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
19 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY
20 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE
21 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
22 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
23 IT WAS OBTAINED BY FRAUD OR UNDER DURESS.
24
25 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO
26 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S
27 RELEASE FROM A LICENSED HOSPITAL OR BIRTH
28 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE
29 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
30 CHILD. WHILE THE CONSENT IS VALID AND BINDING
31 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.

1 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
2 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
3 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR
4 TO THE PLACEMENT OF THE CHILD WITH THE
5 PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT
6 WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
7 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
8 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
9 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
10 LATER.

11
12 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
13 PERIOD, YOU MUST:

14 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
15 A LETTER, THAT YOU ARE WITHDRAWING YOUR
16 CONSENT.

17 2. MAIL THE LETTER AT A UNITED STATES
18 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
19 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
20 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE
21 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
22 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
23 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
24 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.

25 3. SEND THE LETTER BY CERTIFIED UNITED
26 STATES MAIL WITH RETURN RECEIPT REQUESTED.

27 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
28 THE LETTER.

29 5. KEEP THE CERTIFIED MAIL RECEIPT AS
30 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
31 MANNER.

1
2 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
3 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
4 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,
5 IN WRITING BY CERTIFIED UNITED STATES MAIL,
6 RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY
7 YOU SHOULD NOTIFY IS: ...(name of adoption
8 entity)..., ...(address of adoption entity)...,
9 ...(phone number of adoption entity)....

10
11 ONCE THE REVOCATION PERIOD IS OVER, OR THE
12 CHILD HAS BEEN PLACED WITH THE PROSPECTIVE
13 ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU
14 MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN
15 PROVE IN COURT THAT CONSENT WAS OBTAINED BY
16 FRAUD OR UNDER DURESS.

17
18 (5) Before any consent to adoption or affidavit of
19 nonpaternity is executed by a parent, but after the birth of
20 the minor, all requirements of disclosure under s. 63.085 must
21 be met.

22 (6) A copy of each consent signed in an action for
23 termination of parental rights pending adoption must be
24 provided to the person who executed the consent to adoption.
25 The copy must be hand delivered, with a written acknowledgment
26 of receipt signed by the person whose consent is required, or
27 mailed by first class United States mail to the address of
28 record in the court file. If a copy of a consent cannot be
29 provided as required in this subsection, the adoption entity
30 must execute an affidavit stating why the copy of the consent
31 is undeliverable. The original consent and acknowledgment of

1 receipt, an acknowledgment of mailing by the adoption entity,
2 or an affidavit stating why the copy of the consent is
3 undeliverable must be filed with the petition for termination
4 of parental rights pending adoption.

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

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

24 (c) If the court finds that such placement may
25 endanger the minor, the court must enter an order regarding
26 continued placement of the minor. The order shall include, but
27 not be limited to, whether temporary placement in foster care
28 is appropriate, whether an investigation by the department is
29 recommended, and whether a relative within the third degree is
30 available for the temporary placement.

31

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

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

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

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

21 Section 14. Section 63.085, Florida Statutes, is
22 amended to read:

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

25 63.085 Disclosure by adoption entity.--

26 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
27 ADOPTIVE PARENTS.--Not later than 7 days after a person
28 seeking to adopt a minor or a person seeking to place a minor
29 for adoption contacts an adoption entity in person or provides
30 the adoption entity with a mailing address, the entity must
31 provide a written disclosure statement to that person if the

1 entity agrees or continues to work with such person. If an
2 adoption entity is assisting in the effort to terminate the
3 parental rights of a parent who did not initiate the contact
4 with the adoption entity, the written disclosure must be
5 provided within 7 days after that parent is identified and
6 located. The written disclosure statement must be in
7 substantially the following form:

8
9 ADOPTION DISCLOSURE

10
11 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
12 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
13 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
14 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
15 ADOPTION UNDER FLORIDA LAW:

16
17 1. Under section 63.102, Florida
18 Statutes, the existence of a placement or
19 adoption contract signed by the parent or
20 prospective adoptive parent, prior approval of
21 that contract by the court, or payment of any
22 expenses permitted under Florida law does not
23 obligate anyone to sign a consent or ultimately
24 place a minor for adoption.

25 2. Under sections 63.092 and 63.125,
26 Florida Statutes, a favorable preliminary home
27 study, before the minor may be placed in that
28 home, and a final home investigation, before
29 the adoption becomes final, must be completed.

30 3. Under section 63.082, Florida
31 Statutes, a consent to adoption or affidavit of

1 nonpaternity may not be signed until after the
2 birth of the minor.

3 4. Under section 63.082, Florida
4 Statutes, if the minor is to be placed for
5 adoption with identified prospective adoptive
6 parents upon release from a licensed hospital
7 or birth center following birth, the consent to
8 adoption may not be signed until 48 hours after
9 birth or until the day the birth mother has
10 been notified in writing, either on her patient
11 chart or in release papers, that she is fit to
12 be released from the licensed hospital or birth
13 center, whichever is sooner. The consent to
14 adoption or affidavit of nonpaternity is valid
15 and binding upon execution unless the court
16 finds it was obtained by fraud or under duress.

17 5. Under section 63.082, Florida
18 Statutes, if the minor is not placed for
19 adoption with the prospective adoptive parent
20 upon release from the hospital or birth center
21 following birth, a 3-day revocation period
22 applies during which consent may be withdrawn
23 for any reason by notifying the adoption entity
24 in writing. In order to withdraw consent, the
25 written withdrawal of consent must be mailed at
26 a United States Post Office no later than 3
27 business days after execution of the consent or
28 1 business day after the date of the birth
29 mother's discharge from a licensed hospital or
30 birth center, whichever occurs later. For
31 purposes of mailing the withdrawal of consent,

1 the term "business day" means any day on which
2 the United States Postal Service accepts
3 certified mail for delivery. The letter must be
4 sent by certified United States mail, return
5 receipt requested. Postal costs must be paid at
6 the time of mailing and the receipt should be
7 retained as proof that consent was withdrawn in
8 a timely manner.

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

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

1 consent may be withdrawn only if the court
2 finds that the consent was obtained by fraud or
3 under duress.

4 8. Under section 63.082, Florida
5 Statutes, an affidavit of nonpaternity, once
6 executed, may be withdrawn only if the court
7 finds that it was obtained by fraud or under
8 duress.

9 9. Under section 63.082, Florida
10 Statutes, a person who signs a consent to
11 adoption or an affidavit of nonpaternity must
12 be given reasonable notice of his or her right
13 to select a person who does not have an
14 employment, professional, or personal
15 relationship with the adoption entity or the
16 prospective adoptive parents to be present when
17 the consent or affidavit is executed and to
18 sign the consent or affidavit as a witness.

19 10. Under section 63.088, Florida
20 Statutes, specific and extensive efforts are
21 required by law to attempt to obtain the
22 consents required under section 63.062, Florida
23 Statutes. If these efforts are unsuccessful,
24 the court may not enter a judgment terminating
25 parental rights pending adoption until certain
26 requirements have been met.

27 11. Under Florida law, an intermediary
28 may represent the legal interests of only the
29 prospective adoptive parents. Each person whose
30 consent to an adoption is required under
31 section 63.062, Florida Statutes, is entitled

1 to seek independent legal advice and
2 representation before signing any document or
3 surrendering parental rights.
4 12. Under section 63.182, Florida
5 Statutes, an action or proceeding of any kind
6 to vacate, set aside, or otherwise nullify a
7 judgment of adoption or an underlying judgment
8 terminating parental rights pending adoption,
9 on any ground, including duress but excluding
10 fraud, must be filed within 1 year after entry
11 of the judgment terminating parental rights
12 pending adoption. Such an action or proceeding
13 for fraud must be filed within 2 years after
14 entry of the judgment terminating parental
15 rights.
16 13. Under section 63.089, Florida
17 Statutes, a judgment terminating parental
18 rights pending adoption is voidable and any
19 later judgment of adoption of that minor is
20 voidable if, upon the motion of a parent, the
21 court finds that any person knowingly gave
22 false information that prevented the parent
23 from timely making known his or her desire to
24 assume parental responsibilities toward the
25 minor or to exercise his or her parental
26 rights. The motion must be filed with the court
27 that originally entered the judgment. The
28 motion must be filed within a reasonable time,
29 but not later than 2 years after the date the
30 judgment to which the motion is directed was
31 entered.

- 1 14. Under section 63.165, Florida
2 Statutes, the State of Florida maintains a
3 registry of adoption information. Information
4 about the registry is available from the
5 Department of Children and Family Services.
- 6 15. Under section 63.032, Florida
7 Statutes, a court may find that a parent has
8 abandoned his or her child based on conduct
9 during the pregnancy or based on conduct after
10 the child is born. In addition, under section
11 63.089, Florida Statutes, the failure of a
12 parent to respond to notices of proceedings
13 involving his or her child shall result in
14 termination of parental rights of a parent. A
15 lawyer can explain what a parent must do to
16 protect his or her parental rights. Any parent
17 wishing to protect his or her parental rights
18 should act IMMEDIATELY.
- 19 16. Each parent and prospective adoptive
20 parent is entitled to independent legal advice
21 and representation. Attorney information may be
22 obtained from the yellow pages, The Florida
23 Bar's lawyer referral service, and local legal
24 aid offices and bar associations.
- 25 17. Counseling services may be helpful
26 while making a parenting decision. Consult the
27 yellow pages of the telephone directory.
- 28 18. Medical and social services support
29 is available if the parent wishes to retain
30 parental rights and responsibilities. Consult
31 the Department of Children and Family Services.

1 19. Under section 63.039, Florida
2 Statutes, an adoption entity has certain legal
3 responsibilities and may be liable for damages
4 to persons whose consent to an adoption is
5 required or to prospective adoptive parents for
6 failing to materially meet those
7 responsibilities. Damages may also be recovered
8 from an adoption entity if a consent to
9 adoption or affidavit of nonpaternity is
10 obtained by fraud or under duress attributable
11 to an adoption entity.

12 20. Under section 63.097, Florida
13 Statutes, reasonable living expenses of the
14 birth mother may be paid by the prospective
15 adoptive parents and the adoption entity only
16 if the birth mother is unable to pay due to
17 unemployment, underemployment, or disability.
18 The law also allows payment of reasonable and
19 necessary medical expenses, expenses necessary
20 to comply with the requirements of chapter 63,
21 Florida Statutes, court filing expenses, and
22 costs associated with advertising. Certain
23 documented legal, counseling, and other
24 professional fees may be paid. Prior approval
25 of the court is not required until the
26 cumulative total of amounts permitted exceeds
27 \$2,500 in legal or other fees, \$500 in court
28 costs, \$3,000 in expenses or \$1,500 in
29 cumulative expenses incurred prior to the date
30 the prospective adoptive parent retains the
31

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

1 may approve only certain costs and expenses
2 allowed under s. 63.097. The court may approve
3 only fees that are allowed under law and that
4 it finds to be "reasonable." A good idea of
5 what is and is not allowed to be paid for in an
6 adoption can be determined by reading sections
7 63.097 and 63.132, Florida Statutes.

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

28 (3) POSTBIRTH DISCLOSURE TO PARENTS.--Before execution
29 of any consent to adoption by a parent, but after the birth of
30 the minor, all requirements of subsections (1) and (2) for
31

1 making certain disclosures to a parent and obtaining a written
2 acknowledgment of receipt must be repeated.

3 (4) REVOCATION OF CONSENT.--Failure to meet the
4 requirements of s. 63.085(1)-(3) does not constitute grounds
5 for revocation of a consent to adoption or withdrawal of an
6 affidavit of nonpaternity unless the extent and circumstances
7 of such a failure result in a material failure of fundamental
8 fairness in the administration of due process, or the failure
9 constitutes or contributes materially to fraud or duress in
10 obtaining a consent to adoption or affidavit of nonpaternity.

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

13 63.087 Proceeding to terminate parental rights pending
14 adoption; general provisions.--

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

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

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

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

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

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

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

7
8 The court shall consider for purposes of selecting venue the
9 ease of access to the court of the parent who intends to
10 contest a termination of parental rights.

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

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

19 (6) PETITION.--

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

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

30
31

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

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

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

16 (f) The petition must include:

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

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

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

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

8 a. The minor's mother;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 63.088 Proceeding to terminate parental rights pending
19 adoption; notice and service; diligent search.--

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

31

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

12
13 NOTICE OF PETITION AND HEARING

14 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

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

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

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

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

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

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

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

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

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

31

1 (g) Any person the mother has reason to believe may be
2 the father.

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

29 (b) The child has been abandoned when the parent of a
30 child is incarcerated on or after October 1, 2001, in a state
31 or federal correctional institution and:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24
25 If the preliminary home study is favorable, a minor may be
26 placed in the home pending entry of the judgment of adoption.

27 A minor may not be placed in the home if the preliminary home
28 study is unfavorable. If the preliminary home study is
29 unfavorable, the adoption entity intermediary or petitioner
30 may, within 20 days after receipt of a copy of the written
31 recommendation, petition the court to determine the

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

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

9 63.097 Fees.--

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

13 (a) Foster care expenses;

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

15 and

16 (c) Agency facility and administrative costs.

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

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

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

29 (b) Reasonable and necessary medical expenses.

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

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

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

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

8 (f) The following professional fees:

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

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

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

30
31

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

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

5 (b) \$500 in court costs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

1 ~~3-~~ the minor child, if older than 12 years of age,
2 unless the court, in the best interest of the minor child,
3 dispenses with the minor's child's consent under s.
4 63.062(1)(f)~~63.062(1)(c)~~.

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

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

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

17 Section 22. Section 63.122, Florida Statutes, is
18 amended to read:

19 63.122 Notice of hearing on petition.--

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

31

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

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

10 (4) Notice of the hearing must be given by the
11 petitioner to the adoption entity that places the minor.÷

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

14 ~~(b) The intermediary.~~

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

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

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

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

27 63.125 Final home investigation.--

28 (1) The final home investigation must be conducted
29 before the adoption becomes final. The investigation may be
30 conducted by a licensed child-placing agency or a professional
31 in the same manner as provided in s. 63.092 to ascertain

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

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

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

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

27 (5) The final home investigation must include:

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

29 (b) After the minor ~~child~~ is placed in the intended
30 adoptive home, two scheduled visits with the minor ~~child~~ and
31 the minor's ~~child's~~ adoptive parent or parents, one of which

1 visits must be in the home, to determine the suitability of
2 the placement.

3 (c) The family social and medical history as provided
4 in s. 63.082.

5 (d) Any other information relevant to the suitability
6 of the intended adoptive home.

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

9 Section 24. Section 63.132, Florida Statutes, is
10 amended to read:

11 63.132 Affidavit ~~Report~~ of expenses ~~expenditures~~ and
12 receipts.--

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

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

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

1 or entity that provided the service, and the hourly fee
2 charged.

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

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

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

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

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

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

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

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

23 (2) The court may require such additional information
24 as is deemed necessary.

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

31 (a) Contrary to this chapter;

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

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

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

9 Section 25. Section 63.142, Florida Statutes, is
10 amended to read:

11 63.142 Hearing; judgment of adoption.--

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

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

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

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

22 (3) DISMISSAL.--

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

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

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

1 ~~consents have been obtained~~ and that the adoption is in the
2 best interest of the person to be adopted, a judgment of
3 adoption shall be entered.

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

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

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

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

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

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

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

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

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

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

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

31

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

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

27 (3) The adoption entity ~~department, intermediary, or~~
28 ~~licensed child-placing agency~~ must inform the ~~birth~~ parents
29 before parental rights are terminated, and the adoptive
30 parents before placement, in writing, of the existence and
31 purpose of the registry established under this section, but

1 failure to do so does not affect the validity of any
2 proceeding under this chapter.

3 Section 28. Subsection (2) of section 63.202, Florida
4 Statutes, is amended to read:

5 63.202 Authority to license; adoption of rules.--

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

9 Section 29. Section 63.207, Florida Statutes, is
10 amended to read:

11 63.207 Out-of-state placement.--

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

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

22 (b) Place or attempt to place a minor child for the
23 purpose of adoption with a family who primarily lives and
24 works outside Florida in another state. ~~An intermediary may~~
25 ~~place or attempt to place a child for adoption in another~~
26 ~~state only if the child is a special needs child as that term~~
27 ~~is defined in s. 409.166.~~ If an adoption entity intermediary
28 is acting under this subsection, the adoption entity must
29 ~~intermediary shall~~ file a petition for declaratory statement
30 pursuant to s. 63.102 for prior approval of fees and costs.
31 The court shall review the costs pursuant to s. 63.097. The

1 petition for declaratory statement must be converted to a
2 petition for an adoption upon placement of the minor child in
3 the home. The circuit court in this state must retain
4 jurisdiction over the matter until the adoption becomes final.
5 The prospective adoptive parents must come to this state to
6 have the adoption finalized. Violation of the order subjects
7 the adoption entity intermediary to contempt of court and to
8 the penalties provided in s. 63.212.

9 (2) An adoption entity intermediary may not counsel a
10 birth mother to leave the state for the purpose of giving
11 birth to a child outside the state in order to secure a fee in
12 excess of that permitted under s. 63.097 when it is the
13 intention that the child is to be placed for adoption outside
14 the state.

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

18 Section 30. Section 63.212, Florida Statutes, is
19 amended to read:

20 63.212 Prohibited acts; penalties for violation;
21 preplanned adoption agreement.--

22 (1) It is unlawful for any person:

23 (a) ~~Except the department, an intermediary, or an~~
24 ~~agency,~~To place or attempt to place a minor child for
25 adoption with a person who primarily lives and works outside
26 this state unless the minor child is placed with a relative
27 within the third degree or with a stepparent. ~~An intermediary~~
28 ~~may place or attempt to place a special needs child for~~
29 ~~adoption with a person who primarily lives and works outside~~
30 ~~this state only if the intermediary has a declaratory~~
31 ~~statement from the court establishing the fees to be paid.~~

1 This requirement does not apply if the minor child is placed
2 by an adoption entity in accordance with s. 63.207 with a
3 relative within the third degree or with a stepparent.

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

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

25 ~~(c)(d) To sell or surrender, or to arrange for the~~
26 ~~sale or surrender of, a minor child to another person for~~
27 ~~money or anything of value or to receive such minor child for~~
28 ~~such payment or thing of value. If a minor child is being~~
29 ~~adopted by a relative within the third degree or by a~~
30 ~~stepparent, or is being adopted through an adoption entity,~~
31 ~~this paragraph does not prohibit the Department of Children~~

1 ~~and Family Services, an agency, or an intermediary, nothing~~
2 ~~herein shall be construed as prohibiting~~ the person who is
3 ~~contemplating adopting the child from paying, under ss. 63.097~~
4 ~~and 63.132,~~the actual prenatal care and living expenses of
5 the mother of the child to be adopted, or ~~nor~~ from paying,
6 under ss. 63.097 and 63.132,the actual living and medical
7 expenses of such mother for a reasonable time, not to exceed 6
8 weeks, if medical needs require such support, after the birth
9 of the minor child.

10 (d)~~(e)~~ Having the rights and duties of a parent with
11 respect to the care and custody of a minor to assign or
12 transfer such parental rights for the purpose of, incidental
13 to, or otherwise connected with, selling or offering to sell
14 such rights and duties.

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

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

22 (g)~~(h)~~ Except an adoption entity ~~the Department of~~
23 ~~Children and Family Services, an agency, or an intermediary,~~
24 to advertise or offer to the public, in any way, by any medium
25 whatever that a minor child is available for adoption or that
26 a minor child is sought for adoption; and, further, it is
27 unlawful for any person to publish or broadcast any such
28 advertisement without including a Florida license number of
29 the agency or~~attorney, or physician~~ placing the
30 advertisement.

31

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

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

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

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

31

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

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

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

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

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

31

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

21 ~~(3)(2)~~ This section does not ~~Nothing herein shall be~~
22 ~~construed to prohibit~~ an adoption entity a licensed
23 ~~child-placing agency~~ from charging fees permitted under this
24 chapter and ~~reasonably commensurate to the services provided.~~

25 ~~(4)(3)~~ It is unlawful for any adoption entity
26 ~~intermediary~~ to fail to report to the court, prior to
27 placement, the intended placement of a minor child for
28 purposes of adoption with any person not a stepparent or a
29 relative within the third degree, if the adoption entity
30 ~~intermediary~~ participates in such intended placement.

31

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

9 ~~(6)(5)~~ It is unlawful for any adoption entity
10 intermediary to counsel a birth mother to leave the state for
11 the purpose of giving birth to a child outside the state in
12 order to secure a fee in excess of that permitted under s.
13 63.097 when it is the intention that the child be placed for
14 adoption outside the state.

15 ~~(7)(6)~~ It is unlawful for any adoption entity
16 intermediary to obtain a preliminary home study or final home
17 investigation and fail to disclose the existence of the study
18 or investigation to the court.

19 ~~(8)(7)~~ Unless otherwise indicated, a person who
20 violates any provision of this section, excluding paragraph
21 ~~(1)(g)(h),~~ commits ~~is guilty of~~ a felony of the third degree,
22 punishable as provided in s. 775.082, s. 775.083, or s.
23 775.084. A person who violates paragraph ~~(1)(g)(h)~~ commits is
24 ~~guilty of~~ a misdemeanor of the second degree, punishable as
25 provided in s. 775.083; and each day of continuing violation
26 shall be considered a separate offense.

27 Section 31. Section 63.219, Florida Statutes, is
28 amended to read:

29 63.219 Sanctions.--Upon a finding by the court that an
30 adoption entity intermediary or agency has violated any
31 provision of this chapter, the court is authorized to prohibit

1 the adoption entity ~~intermediary or agency~~ from placing a
2 minor for adoption in the future.

3 Section 32. Section 63.2325, Florida Statutes, is
4 created to read:

5 63.2325 Conditions for revocation of a consent to
6 adoption or affidavit of nonpaternity.--Notwithstanding the
7 requirements of this chapter, a failure to meet any of those
8 requirements does not constitute grounds for revocation of a
9 consent to adoption or withdrawal of affidavit of nonpaternity
10 unless the extent and circumstances of such a failure result
11 in a material failure of fundamental fairness in the
12 administration of due process, or the failure constitutes or
13 contributes to fraud or duress in obtaining a consent to
14 adoption or affidavit of nonpaternity.

15 Section 33. Subsection (39) of section 984.03, Florida
16 Statutes, is amended to read:

17 984.03 Definitions.--When used in this chapter, the
18 term:

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

28 Section 34. Subsection (40) of section 985.03, Florida
29 Statutes, is amended to read:

30 985.03 Definitions.--When used in this chapter, the
31 term:

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

10 Section 35. Section 63.072, Florida Statutes, is
11 repealed.

12 Section 36. Any petition for adoption filed before
13 October 1, 2001, shall be governed by the law in effect at the
14 time the petition was filed.

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

21 Section 38. This act shall take effect October 1,
22 2001.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 138
4 Conforms legislative intent language regarding assuring
5 parents and children in adoption proceedings receive the
6 benefits and protections required under chapter 61, F.S.
7 Corrects a number of technical errors.
8 Relocates a provision regarding an award of attorney's fees to
9 persons whose consent to adoption or affidavit of nonpaternity
10 was obtained by fraud or under duress.
11 Requires the clerk of the court to forward all copies of
12 sanction orders against adoption entities to their respective
13 regulating or certifying bodies.
14 Eliminates re-enactment of an existing statutory provision
15 governing statute of repose period in adoption proceedings.
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31