

By the Committees on Children and Families; Judiciary; and
Senators Campbell, Latvala and Sebesta

300-1372-01

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. 63.0427, F.S.; allowing
27 biological relatives to have communication or
28 contact with an adopted child under certain
29 conditions; amending s. 63.052, F.S.; providing
30 for placement of a minor pending adoption;
31 specifying the jurisdiction of the court over a

1 minor placed for adoption; amending s. 63.062,
2 F.S.; specifying additional persons who must
3 consent to an adoption, execute an affidavit of
4 nonpaternity, or receive notice of proceedings
5 to terminate parental rights; providing for
6 form and content of affidavit of nonpaternity;
7 providing for notice of the right to select a
8 witness; providing a form for waiver of venue;
9 amending s. 63.082, F.S.; revising requirements
10 and form for executing a consent to an
11 adoption; making such requirements applicable
12 to affidavit of nonpaternity; providing a
13 revocation period and requirements for
14 withdrawing consent; providing additional
15 disclosure requirements; revising requisite
16 history form to include social history;
17 amending s. 63.085, F.S.; specifying
18 information that must be disclosed to persons
19 seeking to adopt a minor and to the parents;
20 creating s. 63.087, F.S.; requiring that a
21 separate proceeding be conducted by the court
22 to determine whether a parent's parental rights
23 should be terminated; providing for rules,
24 jurisdiction, and venue for such proceedings;
25 providing requirements for the petition and
26 hearing; requiring notification to
27 grandparents; creating s. 63.088, F.S.;
28 providing diligent search and court inquiry
29 requirements for identifying and locating a
30 person who is required to consent to an
31 adoption or receive notice of proceedings to

1 terminate parental rights; providing notice
2 requirements including notice by constructive
3 service; providing that failure to respond or
4 appear constitutes grounds to terminate
5 parental rights pending adoption; creating s.
6 63.089, F.S.; providing hearing procedures for
7 proceedings to terminate parental rights
8 pending adoption; specifying grounds upon which
9 parental rights may be terminated; providing
10 for finding of abandonment; providing for
11 dismissal of petition procedures; providing for
12 post-judgment relief; providing for
13 confidentiality of records; amending s. 63.092,
14 F.S.; restricting certain criminal offenders
15 from having minors placed in their homes for
16 adoption and providing requirements in an
17 at-risk placement before termination of
18 parental rights; amending s. 63.097, F.S.;
19 revising fee requirements to provide for
20 allowable and prohibited fees and costs;
21 amending s. 63.102, F.S.; revising requirements
22 for filing a petition for adoption; providing
23 requirements for prior approval of fees and
24 costs; revising requirements for declaratory
25 statement as to adoption contract; amending s.
26 63.112, F.S.; revising requirements for form
27 and content of a petition for adoption;
28 amending s. 63.122, F.S.; revising the time
29 requirements for hearing a petition for
30 adoption; amending s. 63.125, F.S.; conforming
31 provisions relating to the final home

1 investigation; amending s. 63.132, F.S.;

2 revising requirements for affidavit of expenses

3 and receipts; requiring separate court order

4 approving fees, costs, and expenses; amending

5 s. 63.142, F.S.; specifying circumstances under

6 which a judgment terminating parental rights

7 pending adoption is voidable; providing for an

8 evidentiary hearing to determine the minor's

9 placement following a motion to void such a

10 judgment; amending s. 63.162, F.S.; conforming

11 provisions relating to confidential records of

12 adoption proceedings; amending s. 63.165, F.S.;

13 requiring that the Department of Children and

14 Family Services maintain certain information in

15 the state registry of adoption information for

16 a specified period; amending s. 63.202, F.S.;

17 conforming provisions relating to agencies

18 authorized to place minors for adoption;

19 amending s. 63.207, F.S.; revising provisions

20 that limit the placement of a minor in another

21 state for adoption; amending s. 63.212, F.S.;

22 revising provisions relating to prohibitions

23 and penalties with respect to adoptions;

24 amending s. 63.219, F.S.; conforming provisions

25 relating to sanctions; creating s. 63.2325,

26 F.S.; providing conditions for revocation of a

27 consent to adoption or affidavit of

28 nonpaternity; amending ss. 984.03, 985.03,

29 F.S.; conforming cross-references; repealing s.

30 63.072, F.S., relating to persons who may waive

31 required consent to an adoption; requiring that

1 a petition for adoption be governed by the law
2 in effect at the time the petition is filed;
3 providing for severability; providing an
4 effective date.

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

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

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

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

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

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

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

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

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

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

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

13 39.806 Grounds for termination of parental rights.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 63.022 Legislative intent.--

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

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

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

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

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

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

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

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

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

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

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

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

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

1 safeguards, guidance, counseling, and supervision required in
2 this chapter ~~an intermediary adoption as they receive in an~~
3 ~~agency or department adoption.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (4) The court must forward to:

28 (a) The Florida Bar any order that imposes sanctions
29 under this section against an attorney acting as an adoption
30 entity;

31

1 (b) The Department of Children and Family Services any
2 order that imposes sanctions under this section against a
3 licensed child-placing agency or a child-placing agency
4 licensed in another state which is qualified by the
5 department; and

6 (c) The entity under s. 409.176(5) which certifies
7 child-caring agencies any order that imposes sanctions under
8 this section against a child-caring agency registered under s.
9 409.176.

10
11 The order must be forwarded within 30 days after the date that
12 the order was issued.

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

15 63.0425 Grandparent's right to adopt.--

16 (1) When a child who has lived with a grandparent for
17 at least 6 months is placed for adoption, the adoption entity
18 ~~agency or intermediary~~ handling the adoption shall notify that
19 grandparent of the impending adoption before the petition for
20 adoption is filed. If the grandparent petitions the court to
21 adopt the child, the court shall give first priority for
22 adoption to that grandparent.

23 Section 11. Section 63.0427, Florida Statutes, is
24 amended to read:

25 63.0427 Adopted minor's right to continued
26 communication or contact with siblings.--

27 (1) A child whose parents have had their parental
28 rights terminated and whose custody has been awarded to the
29 department pursuant to s. 39.811, and who is the subject of a
30 petition for adoption under this chapter, shall have the right
31 to have the court consider the appropriateness of postadoption

1 communication or contact, including, but not limited to,
2 visits, letters and cards, or telephone calls, with his or her
3 siblings or, upon agreement of the adoptive parents, other
4 specified biological relatives who are not included in the
5 petition for adoption. The court shall determine if the best
6 interests of the child support such continued communication or
7 contact and shall consider the following in making such
8 determination:

9 (a) Any orders of the court pursuant to s. 39.811(7).

10 (b) Recommendations of the department, the foster
11 parents if other than the adoptive parents, and the guardian
12 ad litem.

13 (c) Statements of prospective adoptive parents.

14 (d) Any other information deemed relevant and material
15 by the court.

16

17 If the court determines that the child's best interests will
18 be served by postadoption communication or contact with any
19 sibling or, upon agreement of the adoptive parents, other
20 specific biological relatives, the court shall so order,
21 stating the nature and frequency for the communication or
22 contact. This order shall be made a part of the final adoption
23 order, but in no event shall continuing validity of the
24 adoption be contingent upon such postadoption communication or
25 contact, nor shall the ability of the adoptive parents and
26 child to change residence within or outside the State of
27 Florida be impaired by such communication or contact.

28 (2) Notwithstanding the provisions of s. 63.162, the
29 adoptive parent may petition for review at any time of ~~sibling~~
30 communication or contact with siblings or biological relatives
31 ordered pursuant to subsection (1), if the adoptive parent

1 believes that the best interests of the adopted child are
2 being compromised, and the court shall have authority to order
3 the communication or contact to be terminated, or to order
4 such conditions in regard to communication or contact as the
5 court deems to be in the best interests of the adopted child.
6 As part of the review process, the court may order the parties
7 to engage in mediation. The department shall not be required
8 to be a party to such review.

9 Section 12. Section 63.052, Florida Statutes, is
10 amended to read:

11 63.052 Guardians designated; proof of commitment.--

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

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

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

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

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

31

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

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

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

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

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

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

8 Section 13. Section 63.062, Florida Statutes, is
9 amended to read:

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

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

18 (a) The mother of the minor.

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

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

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

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

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

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

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

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

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

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

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

18 (g) Any father who has provided, or has attempted to
19 provide, the child or the mother during her pregnancy with
20 support in a repetitive, customary manner, if consent has been
21 obtained under paragraph (1)(a) or subparagraph (1)(b)1.

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

30 (3) A person who signs a consent to adoption or an
31 affidavit of nonpaternity must be given reasonable notice of

1 his or her right to select a person who does not have an
2 employment, professional, or personal relationship with the
3 adoption entity or the prospective adoptive parents to be
4 present when the consent to adoption or affidavit of
5 nonpaternity is executed and to sign the consent or affidavit
6 as a witness.

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

9
10 AFFIDAVIT OF NONPATERNITY

11
12 1. I have personal knowledge of the facts
13 stated in this affidavit.

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

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

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

31

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

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

9 7. I have been told of my right to choose
10 a 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.

15
16 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
17 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
18 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

19
20 ~~(5)(2)~~ The court may require that consent be executed
21 by:

22 (a) Any person lawfully entitled to custody of the
23 minor; or

24 (b) The court having jurisdiction to determine custody
25 of the minor, if the person having physical custody of the
26 minor has no authority to consent to the adoption.

27 ~~(6)(3)~~ The petitioner must make good faith and
28 diligent efforts as provided under s. 63.088 to notify, and
29 obtain written consent from, the persons required to consent
30 to adoption under this section ~~within 60 days after filing the~~
31 ~~petition. These efforts may include conducting interviews and~~

1 ~~record searches to locate those persons, including verifying~~
2 ~~information related to location of residence, employment,~~
3 ~~service in the Armed Forces, vehicle registration in this~~
4 ~~state, and corrections records.~~

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

11 (8)(5) A petition to adopt an adult may be granted if:

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

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

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

26
27 WAIVER OF VENUE

28
29 I understand that I have the right to require
30 that the Petition to terminate my parental
31 rights be filed in the county where I reside. I

1 waive such right so that the Petition to
2 Terminate Parental Rights may be filed by
3 ...(adoption entity)... in ...(county name)...
4 county, Florida.

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

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

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

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

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

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

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

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

19 (b) If by an agency, by affidavit from its authorized
20 representative.

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

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

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

30 (3)(a) The department must provide a consent form and
31 a family social and medical history form to an adoption entity

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

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

29 (c) If any required consent or social and medical
30 history is unavailable because the person whose consent is
31 required cannot be located or identified, the petition to

1 terminate parental rights pending adoption must be accompanied
2 by the affidavit of diligent search required under s. 63.088.

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

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

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

1 in this section does not apply in any case in which the
2 waiting period in s. 63.082(4)(b) applies.

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

28 (e) A consent to adoption must contain, in at least
29 16-point boldfaced type, an acknowledgment of the parent's
30 rights in substantially the following form:

31

CONSENT TO ADOPTION

1
2
3 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
4 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
5 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
6 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
7 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
8 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
9 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
10 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
11 OR WITNESSES YOU SELECTED, IF ANY.

12
13 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
14 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
15 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

- 16
17 1. CONSULT WITH AN ATTORNEY;
18 2. HOLD, CARE FOR, AND FEED THE CHILD;
19 3. PLACE THE CHILD IN FOSTER CARE OR WITH
20 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
21 WILLING TO CARE FOR THE CHILD;
22 4. TAKE THE CHILD HOME UNLESS OTHERWISE
23 LEGALLY PROHIBITED; AND
24 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
25 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
26 THROUGH WITH THE ADOPTION.

27
28 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
29 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID
30 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY
31 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A

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

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

1 entity)..., ...(address of adoption entity)...,
2 ...(phone number of adoption entity)....

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

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

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

29 (7)(a) A consent that is being withdrawn under
30 paragraph (4)(c) may be withdrawn at any time prior to the
31 minor's placement with the prospective adoptive parents or by

1 notifying the adoption entity in writing by certified United
2 States mail, return receipt requested, not later than 3
3 business days after execution of the consent or 1 business day
4 after the date of the birth mother's discharge from a licensed
5 hospital or birth center, whichever occurs later. As used in
6 this subsection, the term "business day" means any day on
7 which the United States Postal Service accepts certified mail
8 for delivery.

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

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

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

30 (e) The adoption entity must return the minor within 3
31 days after notification of the withdrawal of consent or after

1 the court determines that withdrawal is valid and binding upon
2 consideration of an emergency motion, as filed pursuant to
3 subsection (b), to the physical custody of the person
4 withdrawing consent.

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

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

13 Section 15. Section 63.085, Florida Statutes, is
14 amended to read:

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

17 63.085 Disclosure by adoption entity.--

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

1 information or advice from the adoption entity regarding the
2 option of adoptive placement. The written disclosure statement
3 must be in substantially the following form:

4
5 ADOPTION DISCLOSURE

6
7 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
8 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
9 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
10 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
11 ADOPTION UNDER FLORIDA LAW:

12
13 1. Under section 63.102, Florida
14 Statutes, the existence of a placement or
15 adoption contract signed by the parent or
16 prospective adoptive parent, prior approval of
17 that contract by the court, or payment of any
18 expenses permitted under Florida law does not
19 obligate anyone to sign a consent or ultimately
20 place a minor for adoption.

21 2. Under sections 63.092 and 63.125,
22 Florida Statutes, a favorable preliminary home
23 study, before the minor may be placed in that
24 home, and a final home investigation, before
25 the adoption becomes final, must be completed.

26 3. Under section 63.082, Florida
27 Statutes, a consent to adoption or affidavit of
28 nonpaternity may not be signed until after the
29 birth of the minor.

30 4. Under section 63.082, Florida
31 Statutes, if the minor is to be placed for

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

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

1 receipt requested. Postal costs must be paid at
2 the time of mailing and the receipt should be
3 retained as proof that consent was withdrawn in
4 a timely manner.

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

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

31

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

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

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

24 11. Under Florida law, an intermediary
25 may represent the legal interests of only the
26 prospective adoptive parents. Each person whose
27 consent to an adoption is required under
28 section 63.062, Florida Statutes, is entitled
29 to seek independent legal advice and
30 representation before signing any document or
31 surrendering parental rights.

1 12. Under section 63.182, Florida
2 Statutes, an action or proceeding of any kind
3 to vacate, set aside, or otherwise nullify a
4 judgment of adoption or an underlying judgment
5 terminating parental rights pending adoption,
6 on any ground, including duress but excluding
7 fraud, must be filed within 1 year after entry
8 of the judgment terminating parental rights
9 pending adoption. Such an action or proceeding
10 for fraud must be filed within 2 years after
11 entry of the judgment terminating parental
12 rights.

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

29 14. Under section 63.165, Florida
30 Statutes, the State of Florida maintains a
31 registry of adoption information. Information

1 about the registry is available from the
2 Department of Children and Family Services.
3 15. Under section 63.032, Florida
4 Statutes, a court may find that a parent has
5 abandoned his or her child based on conduct
6 during the pregnancy or based on conduct after
7 the child is born. In addition, under section
8 63.089, Florida Statutes, the failure of a
9 parent to respond to notices of proceedings
10 involving his or her child shall result in
11 termination of parental rights of a parent. A
12 lawyer can explain what a parent must do to
13 protect his or her parental rights. Any parent
14 wishing to protect his or her parental rights
15 should act IMMEDIATELY.
16 16. Each parent and prospective adoptive
17 parent is entitled to independent legal advice
18 and representation. Attorney information may be
19 obtained from the yellow pages, The Florida
20 Bar's lawyer referral service, and local legal
21 aid offices and bar associations.
22 17. Counseling services may be helpful
23 while making a parenting decision. Consult the
24 yellow pages of the telephone directory.
25 18. Medical and social services support
26 is available if the parent wishes to retain
27 parental rights and responsibilities. Consult
28 the Department of Children and Family Services.
29 19. Under section 63.039, Florida
30 Statutes, an adoption entity has certain legal
31 responsibilities and may be liable for damages

1 to persons whose consent to an adoption is
2 required or to prospective adoptive parents for
3 failing to materially meet those
4 responsibilities. Damages may also be recovered
5 from an adoption entity if a consent to
6 adoption or affidavit of nonpaternity is
7 obtained by fraud or under duress attributable
8 to an adoption entity.

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

30 a. Any fee or expense that constitutes
31 payment for locating a minor for adoption.

1 b. Any lump-sum payment to the entity
2 which is nonrefundable directly to the payor or
3 which is not itemized on the affidavit.

4 c. Any fee on the affidavit which does
5 not specify the service that was provided and
6 for which the fee is being charged, such as a
7 fee for facilitation or acquisition.

8
9 The court may reduce amounts charged or refund
10 amounts that have been paid if it finds that
11 these amounts were more than what was
12 reasonable or allowed under the law.

13 21. Under section 63.132, Florida
14 Statutes, the adoption entity and the
15 prospective adoptive parents must sign and file
16 with the court a written statement under oath
17 listing all the fees, expenses, and costs made,
18 or agreed to be made, by or on behalf of the
19 prospective adoptive parents and any adoption
20 entity in connection with the adoption. The
21 affidavit must state whether any of the
22 expenses were eligible to be paid for by any
23 other source.

24 22. Under section 63.132, Florida
25 Statutes, the court order approving the money
26 spent on the adoption must be separate from the
27 judgment making the adoption final. The court
28 may approve only certain costs and expenses
29 allowed under s. 63.097. The court may approve
30 only fees that are allowed under law and that
31 it finds to be "reasonable." A good idea of

1 what is and is not allowed to be paid for in an
2 adoption can be determined by reading sections
3 63.097 and 63.132, Florida Statutes.

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

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

29 (4) REVOCATION OF CONSENT.--Failure to meet the
30 requirements of s. 63.085(1)-(3) does not constitute grounds
31 for revocation of a consent to adoption or withdrawal of an

1 affidavit of nonpaternity unless the extent and circumstances
2 of such a failure result in a material failure of fundamental
3 fairness in the administration of due process, or the failure
4 constitutes or contributes materially to fraud or duress in
5 obtaining a consent to adoption or affidavit of nonpaternity.

6 Section 16. Section 63.087, Florida Statutes, is
7 created to read:

8 63.087 Proceeding to terminate parental rights pending
9 adoption; general provisions.--

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

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

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

27 (4) VENUE.--

28 (a) A petition to terminate parental rights pending
29 adoption must be filed:

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

1 2. If the child is younger than 6 months of age or has
2 not continuously resided in one county for the previous 6
3 months, in the county where the parent resided at the time of
4 the execution of the consent to adoption or the affidavit of
5 nonpaternity;

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

14 4. If there is no consent or affidavit of nonpaternity
15 executed by a parent, in the county where the birth mother
16 resides.

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

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

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

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

31

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

3
4 The court shall consider for purposes of selecting venue the
5 ease of access to the court of the parent who intends to
6 contest a termination of parental rights. For purposes of the
7 hearing under this subsection, witnesses located in another
8 jurisdiction may testify by deposition or testify by
9 telephone, audiovisual means, or other electronic means before
10 a designated court or at another location. Documentary
11 evidence transmitted from another location by technological
12 means that does not produce an original writing may not be
13 excluded from evidence on an objection based on the means of
14 transmission. The court on its own motion may otherwise
15 prescribe the manner in which and the terms upon which the
16 testimony is taken.

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

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

25 (6) PETITION.--

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

30 (b) The petition may be filed by a parent or person
31 having legal custody of the minor. The petition may be filed

1 by an adoption entity only if a parent or person having legal
2 custody who has executed a consent to adoption pursuant to s.
3 63.082 consents in writing to the entity filing the petition.
4 The original of such consent must be filed with the petition.

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

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

13 (e) The petition to terminate parental rights pending
14 adoption must be in writing and signed by the petitioner under
15 oath stating the petitioner's good faith in filing the
16 petition. A written consent to adoption, affidavit of
17 nonpaternity, or affidavit of diligent search under s. 63.088,
18 for each person whose consent to adoption is required under s.
19 63.062, must be executed and attached.

20 (f) The petition must include:

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

31

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

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

12 a. The minor's mother;

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

15 c. Any person who has legal custody, as defined in s.
16 39.01, of the minor.

17
18 If a required name or address is not known, the petition must
19 so state.

20 4. All information required by the Uniform Child
21 Custody Jurisdiction Act and the Indian Child Welfare Act.

22 5. A statement of the grounds under s. 63.089 upon
23 which the petition is based.

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

26 7. The name, address, and telephone number of the
27 division of the circuit court in which the petition is to be
28 filed.

29 8. A certification of compliance with the requirements
30 of s. 63.0425 regarding notice to grandparents of an impending
31 adoption.

1 (7) ANSWER NOT REQUIRED.--An answer to the petition or
2 any pleading need not be filed by any minor, parent, or person
3 having legal custody of the minor, but any matter that might
4 be set forth in an answer or other pleading may be pleaded
5 orally before the court or filed in writing. However, failure
6 to file a written response or to appear at the hearing on the
7 petition constitutes grounds upon which the court may
8 terminate parental rights. Notwithstanding the filing of any
9 answer or any pleading, any person present at the hearing to
10 terminate parental rights pending adoption whose consent to
11 adoption is required under s. 63.062 must:

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

15 (b) Be given an opportunity to deny the allegations in
16 the petition; and

17 (c) Be given the opportunity to challenge the validity
18 of any consent or affidavit of nonpaternity signed by any
19 person.

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

22 63.088 Proceeding to terminate parental rights pending
23 adoption; notice and service; diligent search.--

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

1 than 7 days after the date any money is provided as permitted
2 under this chapter by the adoption entity for the benefit of
3 the person seeking to place a minor for adoption.

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

15
16 NOTICE OF PETITION AND HEARING
17 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

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

1 transferred to the county in which you reside.
2 You may object by appearing at the hearing or
3 filing a written objection with the court.

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

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

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

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

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

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

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

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

3 (g) Any person the mother has reason to believe may be
4 the father.

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

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

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

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

31

1 profit-sharing plan and any address to which pension or other
2 funds have been mailed;

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

5 (d) Names and addresses of relatives to the extent
6 such can be reasonably obtained from the petitioner or other
7 sources, contacts with those relatives, and inquiry as to the
8 person's last known address. The petitioner shall pursue any
9 leads of any addresses to which the person may have moved.

10 Relatives include, but are not limited to, parents, brothers,
11 sisters, aunts, uncles, cousins, nieces, nephews,
12 grandparents, great-grandparents, former or current in-laws,
13 stepparents, and stepchildren;

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

16 (f) Telephone listings in the area where the person
17 last resided;

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

20 (h) Highway patrol records in the state where the
21 person last resided;

22 (i) Department of Corrections records in the state
23 where the person last resided;

24 (j) Hospitals in the area where the person last
25 resided;

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

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

31

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

3 (n) Search of one Internet databank locator service;
4 and

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

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

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

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

13 Section 18. Section 63.089, Florida Statutes, is
14 created to read:

15 63.089 Proceeding to terminate parental rights pending
16 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

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

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

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

27 3. Notice has been provided under ss. 63.087 and
28 63.088;

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

31

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

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

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

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

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

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

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

23 (b) Has executed an affidavit of nonpaternity and the
24 affidavit was obtained according to the requirements of this
25 chapter;

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

31

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

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

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

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

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

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

31

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

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

8 2. Whether other persons prevented the person alleged
9 to have abandoned the child from making the efforts referenced
10 in this subsection;

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

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

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

26 6. Whether the person having legal custody of the
27 child made the child's whereabouts known to the person alleged
28 to have abandoned the child, advised that person of the needs
29 of the child or the needs of the mother of an unborn child
30 with regard to the pregnancy, or informed that person of
31

1 events such as medical appointments and tests relating to the
2 child or, if unborn, the pregnancy.

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

6 1. The period of time for which the parent is expected
7 to be incarcerated will constitute a substantial portion of
8 the period of time before the child will attain the age of 18
9 years;

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

27 3. The court determines by clear and convincing
28 evidence that continuing the parental relationship with the
29 incarcerated parent would be harmful to the child and, for
30 this reason, that termination of the parental rights of the
31 incarcerated parent is in the best interest of the child.

1 (c) The only conduct of a father toward a mother
2 during pregnancy that the court may consider in determining
3 whether the child has been abandoned is conduct that occurred
4 after the father was informed he may be the father of the
5 child or after diligent search and notice as provided in s.
6 63.088 have been made to inform the father that he is, or may
7 be, the father of the child.

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

28 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
29 ADOPTION.--
30
31

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

4 (b) Within 24 hours after filing, the clerk of the
5 court shall mail a copy of the judgment to the department, the
6 petitioner, those persons required to give consent under s.
7 63.062, and the respondent. The clerk shall execute a
8 certificate of each mailing.

9 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
10 RIGHTS.--

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

23 (b) No later than 30 days after the filing of a motion
24 under this subsection, the court must conduct a preliminary
25 hearing to determine what contact, if any, shall be permitted
26 between a parent and the child pending resolution of the
27 motion. Such contact shall be considered only if it is
28 requested by a parent who has appeared at the hearing. If the
29 court orders contact between a parent and child, the order
30 must be issued in writing as expeditiously as possible and
31

1 must state with specificity any provisions regarding contact
2 with persons other than those with whom the child resides.

3 (c) At the preliminary hearing, the court, upon the
4 motion of any party or upon its own motion, may order
5 scientific testing to determine the paternity of the minor if
6 the person seeking to set aside the judgment is alleging to be
7 the child's father and that fact has not previously been
8 determined by legitimacy or scientific testing. The court may
9 order supervised visitation with a person for whom scientific
10 testing for paternity has been ordered. Such visitation shall
11 be conditioned upon the filing of those test results with the
12 court and such results establishing that person's paternity of
13 the minor.

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

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

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

27 63.092 Report to the court of intended placement by an
28 adoption entity; at-risk placement intermediary; preliminary
29 study.--

30 (1) REPORT TO THE COURT.--The adoption entity
31 intermediary must report any intended placement of a minor for

1 adoption with any person not related within the third degree
2 or a stepparent if the adoption entity intermediary has
3 knowledge of, or participates in, such intended placement. The
4 report must be made to the court before the minor is placed in
5 the home. A minor may not be placed in a home in which there
6 resides any person determined by the court to be a sexual
7 predator as defined in s. 775.21 or to have been convicted of
8 an offense listed in s. 63.089(4)(b)2.

9 (2) AT-RISK PLACEMENT.--If the minor is placed in the
10 prospective adoptive home before the parental rights of the
11 minor's parents are terminated under s. 63.089, the placement
12 is an at-risk placement. If the placement is an at-risk
13 placement, the prospective adoptive parents must acknowledge
14 in writing before the minor may be placed in the prospective
15 adoptive home that the placement is at risk and that the minor
16 is subject to removal from the prospective adoptive home by
17 the adoption entity or by court order.

18 (3)(2) PRELIMINARY HOME STUDY.--Before placing the
19 minor in the intended adoptive home, a preliminary home study
20 must be performed by a licensed child-placing agency, a
21 child-caring agency registered under s. 409.176, a licensed
22 professional, or agency described in s. 61.20(2), unless the
23 petitioner is a stepparent, a spouse of the ~~birth~~ parent, or a
24 relative. The preliminary study shall be completed within 30
25 days after the receipt by the court of the adoption entity's
26 ~~intermediary's~~ report, but in no event may the minor child be
27 placed in the prospective adoptive home prior to the
28 completion of the preliminary study unless ordered by the
29 court. If the petitioner is a stepparent, a spouse of the
30 ~~birth~~ parent, or a relative, the preliminary home study may be
31 required by the court for good cause shown. The department is

1 required to perform the preliminary home study only if there
2 is no licensed child-placing agency, a child-caring agency
3 registered under s. 409.176, licensed professional, or agency
4 described in s. 61.20(2), in the county where the prospective
5 adoptive parents reside. The preliminary home study must be
6 made to determine the suitability of the intended adoptive
7 parents and may be completed prior to identification of a
8 prospective adoptive minor ~~child~~. A favorable preliminary
9 home study is valid for 1 year after the date of its
10 completion. A minor ~~may~~ ~~child~~ ~~must~~ not be placed in an
11 intended adoptive home before a favorable preliminary home
12 study is completed unless the adoptive home is also a licensed
13 foster home under s. 409.175. The preliminary home study must
14 include, at a minimum:

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

16 (b) Records checks of the department's central abuse
17 registry and criminal records correspondence checks pursuant
18 to s. 435.045 through the Department of Law Enforcement on the
19 intended adoptive parents;

20 (c) An assessment of the physical environment of the
21 home;

22 (d) A determination of the financial security of the
23 intended adoptive parents;

24 (e) Documentation of counseling and education of the
25 intended adoptive parents on adoptive parenting;

26 (f) Documentation that information on adoption and the
27 adoption process has been provided to the intended adoptive
28 parents;

29 (g) Documentation that information on support services
30 available in the community has been provided to the intended
31 adoptive parents; and

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

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

5
6 If the preliminary home study is favorable, a minor may be
7 placed in the home pending entry of the judgment of adoption.
8 A minor may not be placed in the home if the preliminary home
9 study is unfavorable. If the preliminary home study is
10 unfavorable, the adoption entity ~~intermediary or petitioner~~
11 may, within 20 days after receipt of a copy of the written
12 recommendation, petition the court to determine the
13 suitability of the intended adoptive home. A determination as
14 to suitability under this subsection does not act as a
15 presumption of suitability at the final hearing. In
16 determining the suitability of the intended adoptive home, the
17 court must consider the totality of the circumstances in the
18 home.

19 Section 20. Section 63.097, Florida Statutes, is
20 amended to read:

21 63.097 Fees.--

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

25 (a) Foster care expenses;

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

27 and

28 (c) Agency facility and administrative costs.

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

1 (a) Reasonable living expenses of the birth mother
2 which the birth mother is unable to pay due to unemployment,
3 underemployment, or disability due to the pregnancy which is
4 certified by a medical professional who has examined the birth
5 mother, or any other disability defined in s. 110.215.

6 Reasonable living expenses are rent, utilities, basic
7 telephone service, food, necessary clothing, transportation,
8 and expenses found by the court to be necessary for the health
9 of the unborn child.

10 (b) Reasonable and necessary medical expenses.

11 (c) Expenses necessary to comply with the requirements
12 of this chapter, including, but not limited to, service of
13 process under s. 63.088, a diligent search under s. 63.088, a
14 preliminary home study under s. 63.092, and a final home
15 investigation under s. 63.125.

16 (d) Court filing expenses, court costs, and other
17 litigation expenses.

18 (e) Costs associated with advertising under s.
19 63.212(1)(g).

20 (f) The following professional fees:

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

24 2. A reasonable hourly fee for contact with the parent
25 related to the adoption. In determining a reasonable hourly
26 fee under this subparagraph, the court must consider if the
27 tasks done were clerical or of such a nature that the matter
28 could have been handled by support staff at a lesser rate than
29 the rate for legal representation charged under subparagraph
30 1. Such tasks specifically do not include obtaining a parent's
31 signature on any document; such tasks include, but need not be

1 limited to, transportation, transmitting funds, arranging
2 appointments, and securing accommodations.

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

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

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

15 (b) \$500 in court costs;

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

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

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

25 (5) The following fees, costs, and expenses are
26 prohibited:

27 (a) Any fee or expense that constitutes payment for
28 locating a minor for adoption.

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

1 (c) Any fee on the affidavit which does not specify
2 the service that was provided and for which the fee is being
3 charged, such as a fee for facilitation, acquisition, or other
4 similar service, or which does not identify the date the
5 service was provided, the time required to provide the
6 service, the person or entity providing the service, and the
7 hourly fee charged.

8 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~
9 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~
10 ~~\$2,500, paid to an intermediary other than actual, documented~~
11 ~~medical costs, court costs, and hospital costs must be~~
12 ~~approved by the court prior to assessment of the fee by the~~
13 ~~intermediary and upon a showing of justification for the~~
14 ~~larger fee.~~

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

28 Section 21. Section 63.102, Florida Statutes, is
29 amended to read:

30 63.102 Filing of petition for adoption or declaratory
31 statement; venue; proceeding for approval of fees and costs.--

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

15 (2) A petition for adoption or for a declaratory
16 statement as to the adoption contract shall be filed in the
17 county where the petition for termination of parental rights
18 was granted, unless the court in accordance with s. 47.122,
19 changes the venue to the county where the petitioner or
20 petitioners or the minor child resides or where the adoption
21 entity with agency in which the minor child has been placed is
22 located. The circuit court in this state must retain
23 jurisdiction over the matter until a final judgment is entered
24 on the adoption. The Uniform Child Custody Jurisdiction Act
25 does not apply until a final judgment is entered on the
26 adoption.

27 (3) Except for adoptions involving placement of a
28 minor child with a relative within the third degree of
29 consanguinity, a petition for adoption in an adoption handled
30 by an adoption entity intermediary shall be filed within 60 ~~30~~
31 working days after entry of the judgment terminating parental

1 ~~rights placement of a child with a parent seeking to adopt the~~
2 ~~child.~~ If no petition is filed within 60 ~~30~~ days, any
3 interested party, including the state, may file an action
4 challenging the prospective adoptive parent's physical custody
5 of the minor child.

6 (4) If the filing of the petition for adoption or for
7 a declaratory statement as to the adoption contract in the
8 county where the petitioner or minor child resides would tend
9 to endanger the privacy of the petitioner or minor child, the
10 petition for adoption may be filed in a different county,
11 provided the substantive rights of any person will not thereby
12 be affected.

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

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

21 (b) A contract for the payment of fees, costs, and
22 expenses permitted under this chapter must be in writing, and
23 any person who enters into the contract has 3 business days in
24 which to cancel the contract. To cancel the contract, the
25 person must notify the adoption entity in writing by certified
26 United States mail, return receipt requested, no later than 3
27 business days after signing the contract. For the purposes of
28 this subsection, the term "business day" means a day on which
29 the United States Postal Service accepts certified mail for
30 delivery. If the contract is canceled within the first 3
31 business days, the person who cancels the contract does not

1 owe any legal, intermediary, or other fees, but may be
2 responsible for the adoption entity's actual costs during that
3 time.

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

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

16 (e) A petition for adoption filed under this section
17 may be consolidated with a previously filed petition for a
18 declaratory statement. Only one filing fee may be assessed for
19 both the adoption and declaratory-statement petitions.

20 (f) Prior approval of fees and costs by the court does
21 not obligate the parent to ultimately relinquish the minor for
22 adoption. If a petition for adoption is subsequently filed,
23 the petition for declaratory statement and the petition for
24 adoption must be consolidated into one case.

25 Section 22. Section 63.112, Florida Statutes, is
26 amended to read:

27 63.112 Petition for adoption; description; report or
28 recommendation, exceptions; mailing.--

29 (1) A sufficient number of copies of the petition for
30 adoption shall be signed and verified by the petitioner and
31

1 filed with the clerk of the court so that service may be made
2 under subsection (4) and shall state:

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

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

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

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

10 (e) The marital status of the petitioner, including
11 the date and place of marriage, if married, and divorces, if
12 any;

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

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

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

23 (i) The reasons why the petitioner desires to adopt
24 the person.

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

27 (a) A certified copy of the court judgment terminating
28 parental rights under chapter 39 or under this chapter ~~The~~
29 ~~required consents, unless consent is excused by the court.~~

30 (b) The favorable preliminary home study of the
31 department, licensed child-placing agency, or professional

1 pursuant to s. 63.092, as to the suitability of the home in
2 which the minor has been placed.

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

5 1. ~~The birth mother, if parental rights have not been~~
6 ~~terminated;~~

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

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

13

14 ~~The court may waive the requirement for an interview with the~~
15 ~~birth mother or birth father in the investigation for good~~
16 ~~cause shown.~~

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

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

25 Section 23. Section 63.122, Florida Statutes, is
26 amended to read:

27 63.122 Notice of hearing on petition.--

28 (1) After the petition to adopt a minor is filed, the
29 court must establish a time and place for hearing the
30 petition. The hearing may ~~must~~ not be held sooner than 30 days
31 after the date the judgment terminating parental rights was

1 entered or sooner than 90 days after the date the minor was
2 placed ~~the placing of the minor~~ in the physical custody of the
3 petitioner. The minor must remain under the supervision of
4 the adoption entity department, ~~an intermediary, or a licensed~~
5 ~~child-placing agency~~ until the adoption becomes final. When
6 the petitioner is a spouse of the birth parent, the hearing
7 may be held immediately after the filing of the petition.

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

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

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

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

21 ~~(b) The intermediary.~~

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

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

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

1 Section 24. Section 63.125, Florida Statutes, is
2 amended to read:

3 63.125 Final home investigation.--

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

18 (2) The department, the licensed child-placing agency,
19 or the professional that performs the investigation must file
20 a written report of the investigation with the court and the
21 petitioner within 90 days after the date the petition is
22 filed.

23 (3) The report of the investigation must contain an
24 evaluation of the placement with a recommendation on the
25 granting of the petition for adoption and any other
26 information the court requires regarding the petitioner or the
27 minor.

28 (4) The department, the licensed child-placing agency,
29 or the professional making the required investigation may
30 request other state agencies or child-placing agencies within
31 or outside this state to make investigations of designated

1 parts of the inquiry and to make a written report to the
2 department, the professional, or other person or agency.

3 (5) The final home investigation must include:

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

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

10 (c) The family social and medical history as provided
11 in s. 63.082.

12 (d) Any other information relevant to the suitability
13 of the intended adoptive home.

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

16 Section 25. Section 63.132, Florida Statutes, is
17 amended to read:

18 63.132 Affidavit Report of expenses ~~expenditures~~ and
19 receipts.--

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

24 (a) The affidavit must be signed by the adoption
25 entity and the prospective adoptive parents. A copy of the
26 affidavit must be provided to the adoptive parents at the time
27 the affidavit is executed.

28 (b) The affidavit must itemize ~~containing a full~~
29 ~~accounting of~~ all disbursements and receipts of anything of
30 value, including professional and legal fees, made or agreed
31 to be made by or on behalf of the prospective adoptive parent

1 ~~petitioner~~ and any adoption entity intermediary in connection
2 with the adoption or in connection with any prior proceeding
3 to terminate parental rights which involved the minor who is
4 the subject of the petition for adoption. The affidavit must
5 also include, for each fee itemized, the service provided for
6 which the fee is being charged, the date the service was
7 provided, the time required to provide the service, the person
8 or entity that provided the service, and the hourly fee
9 charged.

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

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

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

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

16 3.~~(c)~~ The medical or hospital care received by the
17 mother or by the minor during the mother's prenatal care and
18 confinement.

19 4.~~(d)~~ The living expenses of the birth mother. The
20 living expenses must be documented in detail to apprise the
21 court of the exact expenses incurred.

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

26
27 The affidavit must state whether any of these expenses were
28 paid for by collateral sources, including, but not limited to,
29 health insurance, Medicaid, Medicare, or public assistance.

30 (2) The court may require such additional information
31 as is deemed necessary.

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

7 (a) Contrary to this chapter;

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

10 (c) Not a reasonable fee or expense, considering the
11 requirements of this chapter and the totality of the
12 circumstances.

13 (4)(3) This section does not apply to an adoption by a
14 stepparent whose spouse is a ~~natural or adoptive~~ parent of the
15 child.

16 Section 26. Section 63.142, Florida Statutes, is
17 amended to read:

18 63.142 Hearing; judgment of adoption.--

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

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

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

25 (2) CONTINUANCE.--The court may continue the hearing
26 from time to time to permit further observation,
27 investigation, or consideration of any facts or circumstances
28 affecting the granting of the petition.

29 (3) DISMISSAL.--

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

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

3 (4) JUDGMENT.--At the conclusion of the hearing, after
4 ~~when~~ the court determines that the date for a parent to file
5 an appeal of a valid judgment terminating that parent's
6 parental rights has passed and no appeal, pursuant to the
7 Florida Rules of Appellate Procedure, is pending all necessary
8 ~~consents have been obtained~~ and that the adoption is in the
9 best interest of the person to be adopted, a judgment of
10 adoption shall be entered.

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

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

1 provisions regarding contact with persons other than those
2 with whom the child resides.

3 (c) At the preliminary hearing, the court, upon the
4 motion of any party or its own motion, may order scientific
5 testing to determine the paternity of the minor if the person
6 seeking to set aside the judgment is alleging to be the
7 child's father and that fact has not previously been
8 determined by legitimacy or scientific testing. The court may
9 order supervised visitation with a person for whom scientific
10 testing for paternity has been ordered. Such visitation shall
11 be conditioned upon the filing of those test results with the
12 court and such results establishing that person's paternity of
13 the minor.

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

19 Section 27. Subsection (2) of section 63.162, Florida
20 Statutes, is amended to read:

21 63.162 Hearings and records in adoption proceedings;
22 confidential nature.--

23 (2) All papers and records pertaining to the adoption,
24 including the original birth certificate, whether part of the
25 permanent record of the court or a file in the office of an
26 adoption entity ~~department, in a licensed child-placing~~
27 ~~agency, or in the office of an intermediary~~ are confidential
28 and subject to inspection only upon order of the court;
29 however, the petitioner in any proceeding for adoption under
30 this chapter may, at the option of the petitioner, make public
31 the reasons for a denial of the petition for adoption. The

1 order must specify which portion of the records are subject to
2 inspection, and it may exclude the name and identifying
3 information concerning the ~~birth~~ parent or adoptee. Papers and
4 records of the department, a court, or any other governmental
5 agency, which papers and records relate to adoptions, are
6 exempt from s. 119.07(1). In the case of a nonagency
7 adoption, the department must be given notice of hearing and
8 be permitted to present to the court a report on the
9 advisability of disclosing or not disclosing information
10 pertaining to the adoption. In the case of an agency
11 adoption, the licensed child-placing agency must be given
12 notice of hearing and be permitted to present to the court a
13 report on the advisability of disclosing or not disclosing
14 information pertaining to the adoption. This subsection does
15 not prohibit the department from inspecting and copying any
16 official record pertaining to the adoption that is maintained
17 by the department and does not prohibit an agency from
18 inspecting and copying any official record pertaining to the
19 adoption that is maintained by that agency.

20 Section 28. Section 63.165, Florida Statutes, is
21 amended to read:

22 63.165 State registry of adoption information; duty to
23 inform and explain.--Notwithstanding any other law to the
24 contrary, the department shall maintain a registry with the
25 last known names and addresses of an adoptee and his or her
26 ~~natural~~ parents whose consent was required under s. 63.062,
27 and adoptive parents and any other identifying information
28 that ~~which~~ the adoptee, ~~natural~~ parents whose consent was
29 required under s. 63.062, or adoptive parents desire to
30 include in the registry. The department shall maintain the
31 registry records for the time required by rules adopted by the

1 department in accordance with this chapter or for 99 years,
2 whichever period is greater.The registry shall be open with
3 respect to all adoptions in the state, regardless of when they
4 took place. The registry shall be available for those persons
5 choosing to enter information therein, but no one shall be
6 required to do so.

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

25 (2) The department may charge a reasonable fee to any
26 person seeking to enter, change, or use information in the
27 registry. The department shall deposit such fees in a trust
28 fund to be used by the department only for the efficient
29 administration of this section. The department and agencies
30 shall make counseling available for a fee to all persons
31

1 seeking to use the registry, and the department shall inform
2 all affected persons of the availability of such counseling.

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

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

12 63.202 Authority to license; adoption of rules.--

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

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

18 63.207 Out-of-state placement.--

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

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

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

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

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

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

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

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

29 (1) It is unlawful for any person:

30 (a) ~~Except the department, an intermediary, or an~~
31 ~~agency,~~To place or attempt to place a minor child for

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

31

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

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

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

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

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

19 Section 38. If any provision of this act or the
20 application thereof to any person or circumstance is held
21 invalid, the invalidity does not affect other provisions or
22 applications of the act which can be given effect without the
23 invalid provision or application, and to this end the
24 provisions of this act are declared severable.

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

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS for SB 138
4
5 Expands the postadoption communication or contact with the
6 child which the court can include in the final adoption order
7 to include specified biological relatives with the agreement
8 of the adoptive parents.
9
10 Expands the categories of "fathers" from whom consent for
11 adoption must be obtained or to whom notice must be given to
12 include the biological father who has provided or attempted to
13 provide support to the child or mother during the pregnancy,
14 if consent has been provided by the legal father who was
15 married to the birth mother at the time of conception or
16 birth.
17
18 Stipulates the point at which a parent is considered to be
19 seeking to place a minor for adoption for the purposes of
20 providing a written disclosure statement.
21
22 Permits witnesses located in another jurisdiction to testify
23 by deposition or by electronic means in the court hearing to
24 consider venue.
25
26 Prohibits a child from being placed in a home where a
27 convicted sexual predator or other specified convicted felony
28 offenders reside.
29
30 Expands the entities permitted to perform the preliminary home
31 study to include a child-caring agency registered pursuant to
 s. 409.176 F.S.