

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; creating s. 395.1024, F.S.;
29 requiring a licensed facility to adopt protocol
30 for staff concerning adoption; creating s.
31 383.310, F.S.; requiring a licensed facility to

1 adopt protocol for staff concerning adoption;
2 amending ss. 984.03, 985.03, F.S.; conforming
3 cross-references; repealing s. 63.072, F.S.,
4 relating to persons who may waive required
5 consent to an adoption; requiring that a
6 petition for adoption be governed by the law in
7 effect at the time the petition is filed;
8 providing for severability; providing an
9 effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 39.703, Florida Statutes, is
14 amended to read:

15 39.703 Initiation of termination of parental rights
16 proceedings; judicial review.--

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

1 ~~licensed child-placing agency~~ shall provide a written report
2 to the court outlining the reasons for delay, the progress
3 made in the termination of parental rights process, and the
4 anticipated date of completion of the process.

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

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

1 39.802 Petition for termination of parental rights;
2 filing; elements.--

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

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

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

17 39.806 Grounds for termination of parental rights.--

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

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

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

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

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

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

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

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

26 2. The incarcerated parent has been determined by the
27 court to be a violent career criminal as defined in s.
28 775.084, a habitual violent felony offender as defined in s.
29 775.084, or a sexual predator as defined in s. 775.21; has
30 been convicted of first degree or second degree murder in
31 violation of s. 782.04 or a sexual battery that constitutes a

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

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

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

1 and the approval by the court of a case plan with a goal of
2 reunification with the parent, whichever came first.

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

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

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

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

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

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

31

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

3 39.811 Powers of disposition; order of disposition.--

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

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

24 Section 5. Section 39.812, Florida Statutes, is
25 amended to read:

26 39.812 Postdisposition relief; petition for
27 adoption--

28 (1) ~~If A licensed child-placing agency or the~~
29 department ~~which~~ is given custody of a child for subsequent
30 adoption in accordance with this chapter, the department may
31 place the child with an agency as defined in s. 63.032, with a

1 child-caring agency registered under s. 409.176, or in a
2 family home for prospective subsequent adoption.~~, and the~~
3 ~~licensed child-placing agency or~~ The department may thereafter
4 become a party to any proceeding for the legal adoption of the
5 child and appear in any court where the adoption proceeding is
6 pending and consent to the adoption, ~~and that consent alone~~
7 shall in all cases be sufficient.

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

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

29 (4) The court shall retain jurisdiction over any child
30 placed in the custody of ~~for whom custody is given to a~~
31 ~~licensed child-placing agency or~~ to the department until the

1 child is adopted. After custody of a child for subsequent
2 adoption has been given to ~~an agency or~~ the department, the
3 court has jurisdiction for the purpose of reviewing the status
4 of the child and the progress being made toward permanent
5 adoptive placement. As part of this continuing jurisdiction,
6 for good cause shown by the guardian ad litem for the child,
7 the court may review the appropriateness of the adoptive
8 placement of the child.

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

23 Section 6. Section 63.022, Florida Statutes, is
24 amended to read:

25 63.022 Legislative intent.--

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

31

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

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

4 (b) The required persons consent to the adoption or
5 the parent-child relationship is terminated by judgment of the
6 court.

7 (c) The required social studies are completed and the
8 court considers the reports of these studies prior to judgment
9 on adoption petitions.

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

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

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

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

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

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

1 (j) The records of all proceedings concerning custody
2 and adoption of a minor children are confidential and exempt
3 from ~~the provisions of s. 119.07(1)~~, except as provided in s.
4 63.162.

5 (k) The ~~birth~~ parent, the prospective adoptive parent,
6 and the minor child receive at a minimum ~~the same or similar~~
7 safeguards, guidance, counseling, and supervision required in
8 this chapter ~~an intermediary adoption as they receive in an~~
9 ~~agency or department adoption.~~

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

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

20 Section 7. Section 63.032, Florida Statutes, is
21 amended to read:

22 63.032 Definitions.--As used in this chapter act,
23 ~~unless the context otherwise requires~~, the term:

24 (1)~~(14)~~ "Abandoned" means a situation in which the
25 parent or person having legal custody ~~legal custodian~~ of a
26 child, while being able, makes no provision for the child's
27 support and makes no effort to communicate with the child,
28 which situation is sufficient to evince a willful rejection of
29 parental obligations. If, in the opinion of the court, the
30 efforts of such parent or person having legal custody of the
31 child ~~legal custodian~~ to support and communicate with the

1 child are only marginal efforts that do not evince a settled
2 purpose to assume all parental duties, the court may declare
3 the child to be abandoned. In making this decision, the court
4 may consider the conduct of a father towards the child's
5 mother during her pregnancy.

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

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

15 (4)~~(5)~~ "Adult" means a person who is not a minor.

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

19 (6)~~(2)~~ "Child" means a son or daughter, whether by
20 birth or adoption.

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

24 (8)~~(1)~~ "Department" means the Department of Children
25 and Family Services.

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

1 (10) "Legal custody" has the meaning ascribed in s.
2 39.01.

3 (11)~~(4)~~ "Minor" means a person under the age of 18
4 years.

5 (12) "Parent" has the same meaning ascribed in s.
6 39.01.

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

11 (14) "Relative" has the same meaning ascribed in s.
12 39.01.

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

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

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

29 (18)~~(11)~~ "Suitability of the intended placement"
30 includes the fitness of the intended placement, with primary
31 consideration being given to the welfare of the child; the

1 fitness and capabilities of the adoptive parent or parents to
2 function as parent or parents for a particular child; any
3 familial relationship between the child and the prospective
4 placement; and the compatibility of the child with the home in
5 which the child is intended to be placed.

6 Section 8. Section 63.037, Florida Statutes, is
7 created to read:

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

22 Section 9. Section 63.039, Florida Statutes, is
23 created to read:

24 63.039 Duty of adoption entity to prospective adoptive
25 parents; sanctions.--

26 (1) An adoption entity placing a minor for adoption
27 has an affirmative duty to follow the requirements of this
28 chapter and specifically the following provisions, which
29 protect and promote the well-being of persons being adopted
30 and their parents and prospective adoptive parents by
31

- 1 promoting certainty, finality, and permanency for such
2 persons. The adoption entity must:
- 3 (a) Provide written initial disclosure to the
4 prospective adoptive parent at the time and in the manner
5 required under s. 63.085.
- 6 (b) Provide written initial and postbirth disclosure
7 to the parent at the time and in the manner required under s.
8 63.085.
- 9 (c) When a written consent for adoption is obtained,
10 obtain the consent at the time and in the manner required
11 under s. 63.082.
- 12 (d) When a written consent or affidavit of
13 nonpaternity for adoption is obtained, obtain a consent to
14 adoption or affidavit of nonpaternity that contains the
15 language required under s. 63.062 or s. 63.082.
- 16 (e) Include in the petition to terminate parental
17 rights pending adoption all information required under s.
18 63.087(6)(e) and (f).
- 19 (f) Obtain and file the affidavit of inquiry pursuant
20 to s. 63.088(3), if the required inquiry is not conducted
21 orally in the presence of the court.
- 22 (g) When the identity of a person whose consent to
23 adoption is necessary under this chapter is known but the
24 location of such a person is unknown, conduct the diligent
25 search and file the affidavit required under s. 63.088(4).
- 26 (h) Serve the petition and notice of hearing to
27 terminate parental rights pending adoption at the time and in
28 the manner required by s. 63.088.
- 29 (i) Obtain the written waiver of venue required under
30 s. 63.062 in cases involving a child younger than 6 months of
31 age in which venue for the termination of parental rights will

1 be located in a county other than the county where the parent
2 whose rights are to be terminated resides.

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

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

29 (4) The court must forward to:
30
31

1 (a) The Florida Bar any order that imposes sanctions
2 under this section against an attorney acting as an adoption
3 entity;

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

9 (c) The entity under s. 409.176(5) which certifies
10 child-caring agencies any order that imposes sanctions under
11 this section against a child-caring agency registered under s.
12 409.176.

13
14 The order must be forwarded within 30 days after the date that
15 the order was issued.

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

18 63.0425 Grandparent's right to adopt.--

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

26 Section 11. Section 63.0427, Florida Statutes, is
27 amended to read:

28 63.0427 Adopted minor's right to continued
29 communication or contact with siblings.--

30 (1) A child whose parents have had their parental
31 rights terminated and whose custody has been awarded to the

1 department pursuant to s. 39.811, and who is the subject of a
2 petition for adoption under this chapter, shall have the right
3 to have the court consider the appropriateness of postadoption
4 communication or contact, including, but not limited to,
5 visits, letters and cards, or telephone calls, with his or her
6 siblings or, upon agreement of the adoptive parents, other
7 specified biological relatives who are not included in the
8 petition for adoption. The court shall determine if the best
9 interests of the child support such continued communication or
10 contact and shall consider the following in making such
11 determination:

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

13 (b) Recommendations of the department, the foster
14 parents if other than the adoptive parents, and the guardian
15 ad litem.

16 (c) Statements of prospective adoptive parents.

17 (d) Any other information deemed relevant and material
18 by the court.

19

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

31

1 (2) Notwithstanding the provisions of s. 63.162, the
2 adoptive parent may petition for review at any time of ~~sibling~~
3 communication or contact with siblings or biological relatives
4 ordered pursuant to subsection (1), if the adoptive parent
5 believes that the best interests of the adopted child are
6 being compromised, and the court shall have authority to order
7 the communication or contact to be terminated, or to order
8 such conditions in regard to communication or contact as the
9 court deems to be in the best interests of the adopted child.
10 As part of the review process, the court may order the parties
11 to engage in mediation. The department shall not be required
12 to be a party to such review.

13 Section 12. Section 63.052, Florida Statutes, is
14 amended to read:

15 63.052 Guardians designated; proof of commitment.--

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

23 (2) For minors who have been voluntarily surrendered
24 to an intermediary through an execution of consent to
25 adoption, the intermediary shall be responsible for the minor
26 child until the time a court orders preliminary approval of
27 placement of the minor child in the prospective adoptive home,
28 at which time the prospective adoptive parents become
29 guardians pending finalization of adoption. Until a court has
30 terminated parental rights pending adoption and has ordered
31 preliminary approval of placement of the minor in the adoptive

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

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

28 (3) If a minor is surrendered to an intermediary for
29 subsequent adoption and a suitable prospective adoptive home
30 is not available pursuant to s. 63.092 at the time the minor
31 is surrendered to the intermediary or, if the minor is a

1 newborn admitted to a licensed hospital or birth center, at
2 the time the minor is discharged from the hospital or birth
3 center, the minor must be placed in foster care, the
4 ~~intermediary shall be responsible for the child until such a~~
5 suitable prospective adoptive home is available.

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

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

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

28 (7) The court retains jurisdiction of a minor who has
29 been placed for adoption until the adoption is final. After a
30 minor is placed with an adoption entity or prospective
31 adoptive parent, the court may review the status of the minor

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

11 Section 13. Section 63.062, Florida Statutes, is
12 amended to read:

13 63.062 Persons required to consent to adoption;
14 affidavit of nonpaternity; waiver of venue.--

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

21 (a) The mother of the minor.

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

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

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

26 3. The minor has been established by court proceeding
27 to be his child.

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

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

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

8 2.5. He Has provided, or has attempted to provide, the
9 child or the mother during her pregnancy with support in a
10 repetitive, customary manner; or-

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

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

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

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

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

31

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

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

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

13
14 AFFIDAVIT OF NONPATERNITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29
30 WAIVER OF VENUE
31

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

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

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

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

1 termination of parental rights and information identifying the
2 child which will be sufficient for the clerk to properly file
3 the form upon receipt.

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

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

14 63.082 Execution of consent to adoption or affidavit
15 of nonpaternity; family social and medical history; withdrawal
16 of consent.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6
7 CONSENT TO ADOPTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

21 Section 15. Section 63.085, Florida Statutes, is
22 amended to read:

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

25 63.085 Disclosure by adoption entity.--

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

1 entity agrees or continues to work with such person. If an
2 adoption entity is assisting in the effort to terminate the
3 parental rights of a parent who did not initiate the contact
4 with the adoption entity, the written disclosure must be
5 provided within 7 days after that parent is identified and
6 located. A person is considered to be seeking to place a minor
7 for adoption for purposes of providing the disclosure to that
8 person under this section when that person has sought
9 information or advice from the adoption entity regarding the
10 option of adoptive placement. The written disclosure statement
11 must be in substantially the following form:

12
13 ADOPTION DISCLOSURE

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

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

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

1 home, and a final home investigation, before
2 the adoption becomes final, must be completed.

3 3. Under section 63.082, Florida
4 Statutes, a consent to adoption or affidavit of
5 nonpaternity may not be signed until after the
6 birth of the minor.

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

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

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

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

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

1 withdrawing consent. After the revocation
2 period for withdrawal of consent ends, or after
3 the placement of the child with prospective
4 adoptive parent, whichever occurs later, the
5 consent may be withdrawn only if the court
6 finds that the consent was obtained by fraud or
7 under duress.

8 8. Under section 63.082, Florida
9 Statutes, an affidavit of nonpaternity, once
10 executed, may be withdrawn only if the court
11 finds that it was obtained by fraud or under
12 duress.

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

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

31

1 11. Under Florida law, an intermediary
2 may represent the legal interests of only the
3 prospective adoptive parents. Each person whose
4 consent to an adoption is required under
5 section 63.062, Florida Statutes, is entitled
6 to seek independent legal advice and
7 representation before signing any document or
8 surrendering parental rights.

9 12. Under section 63.182, Florida
10 Statutes, an action or proceeding of any kind
11 to vacate, set aside, or otherwise nullify a
12 judgment of adoption or an underlying judgment
13 terminating parental rights pending adoption,
14 on any ground, including duress but excluding
15 fraud, must be filed within 1 year after entry
16 of the judgment terminating parental rights
17 pending adoption. Such an action or proceeding
18 for fraud must be filed within 2 years after
19 entry of the judgment terminating parental
20 rights.

21 13. Under section 63.089, Florida
22 Statutes, a judgment terminating parental
23 rights pending adoption is voidable and any
24 later judgment of adoption of that minor is
25 voidable if, upon the motion of a parent, the
26 court finds that any person knowingly gave
27 false information that prevented the parent
28 from timely making known his or her desire to
29 assume parental responsibilities toward the
30 minor or to exercise his or her parental
31 rights. The motion must be filed with the court

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

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

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

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

30
31

1 17. Counseling services may be helpful
2 while making a parenting decision. Consult the
3 yellow pages of the telephone directory.

4 18. Medical and social services support
5 is available if the parent wishes to retain
6 parental rights and responsibilities. Consult
7 the Department of Children and Family Services.

8 19. Under section 63.039, Florida
9 Statutes, an adoption entity has certain legal
10 responsibilities and may be liable for damages
11 to persons whose consent to an adoption is
12 required or to prospective adoptive parents for
13 failing to materially meet those
14 responsibilities. Damages may also be recovered
15 from an adoption entity if a consent to
16 adoption or affidavit of nonpaternity is
17 obtained by fraud or under duress attributable
18 to an adoption entity.

19 20. Under section 63.097, Florida
20 Statutes, reasonable living expenses of the
21 birth mother may be paid by the prospective
22 adoptive parents and the adoption entity only
23 if the birth mother is unable to pay due to
24 unemployment, underemployment, or disability.
25 The law also allows payment of reasonable and
26 necessary medical expenses, expenses necessary
27 to comply with the requirements of chapter 63,
28 Florida Statutes, court filing expenses, and
29 costs associated with advertising. Certain
30 documented legal, counseling, and other
31 professional fees may be paid. Prior approval

1 of the court is not required until the
2 cumulative total of amounts permitted exceeds
3 \$2,500 in legal or other fees, \$500 in court
4 costs, \$3,000 in expenses or \$1,500 in
5 cumulative expenses incurred prior to the date
6 the prospective adoptive parent retains the
7 adoption entity. The following fees, costs, and
8 expenses are prohibited:

9 a. Any fee or expense that constitutes
10 payment for locating a minor for adoption.

11 b. Any lump-sum payment to the entity
12 which is nonrefundable directly to the payor or
13 which is not itemized on the affidavit.

14 c. Any fee on the affidavit which does
15 not specify the service that was provided and
16 for which the fee is being charged, such as a
17 fee for facilitation or acquisition.

18
19 The court may reduce amounts charged or refund
20 amounts that have been paid if it finds that
21 these amounts were more than what was
22 reasonable or allowed under the law.

23 21. Under section 63.132, Florida
24 Statutes, the adoption entity and the
25 prospective adoptive parents must sign and file
26 with the court a written statement under oath
27 listing all the fees, expenses, and costs made,
28 or agreed to be made, by or on behalf of the
29 prospective adoptive parents and any adoption
30 entity in connection with the adoption. The
31 affidavit must state whether any of the

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

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

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

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

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

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

18 63.087 Proceeding to terminate parental rights pending
19 adoption; general provisions.--

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

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

27 (3) JURISDICTION.--A court of this state which is
28 competent to decide child welfare or custody matters has
29 jurisdiction to hear all matters arising from a proceeding to
30 terminate parental rights pending adoption. All subsequent
31 proceedings for the adoption of the minor, if the petition for

1 termination is granted, must be conducted by the same judge
2 who conducted the termination proceedings, if that judge is
3 still available within the division of the court which
4 conducts termination or adoption cases or, if that judge is
5 unavailable, by another judge within the division.

6 (4) VENUE.--

7 (a) A petition to terminate parental rights pending
8 adoption must be filed:

9 1. In the county where the child resided for the
10 previous 6 months;

11 2. If the child is younger than 6 months of age or has
12 not continuously resided in one county for the previous 6
13 months, in the county where the parent resided at the time of
14 the execution of the consent to adoption or the affidavit of
15 nonpaternity;

16 3. If the child is younger than 6 months of age and a
17 waiver of venue has been obtained pursuant to 63.062 in the
18 county where the adoption entity is located or, if the
19 adoption entity has more than one place of business, in the
20 county which is located in closest proximity to the county in
21 which the parent whose rights are to be terminated resided at
22 the time of execution of the consent or affidavit of
23 nonpaternity; or

24 4. If there is no consent or affidavit of nonpaternity
25 executed by a parent, in the county where the birth mother
26 resides.

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

29 (b) If a petition for termination of parental rights
30 has been filed and a parent whose rights are to be terminated
31 objects to venue, there must be a hearing in which the court

1 shall determine whether that parent intends to assert legally
2 recognized grounds to contest a termination of parental rights
3 and, if so, the court shall immediately transfer venue to the
4 county where that parent resides, if there is such a county,
5 or, if not, a county where:

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

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

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

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

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

28 (5) PREREQUISITE FOR ADOPTION.--A petition for
29 adoption may not be filed until 30 days after the date the
30 judge signed the judgment terminating parental rights pending
31 adoption under this chapter, unless the adoptee is an adult or

1 the minor has been the subject of a judgment terminating
2 parental rights under chapter 39.

3 (6) PETITION.--

4 (a) A proceeding seeking to terminate parental rights
5 pending adoption pursuant to this chapter must be initiated by
6 the filing of an original petition after the birth of the
7 minor.

8 (b) The petition may be filed by a parent or person
9 having legal custody of the minor. The petition may be filed
10 by an adoption entity only if a parent or person having legal
11 custody who has executed a consent to adoption pursuant to s.
12 63.082 consents in writing to the entity filing the petition.
13 The original of such consent must be filed with the petition.

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

17 (d) A petition to terminate parental rights must be
18 consolidated with a previously filed petition for a
19 declaratory statement filed under s. 63.102. Only one filing
20 fee may be assessed for both the termination of parental
21 rights and declaratory-statement petitions.

22 (e) The petition to terminate parental rights pending
23 adoption must be in writing and signed by the petitioner under
24 oath stating the petitioner's good faith in filing the
25 petition. A written consent to adoption, affidavit of
26 nonpaternity, or affidavit of diligent search under s. 63.088,
27 for each person whose consent to adoption is required under s.
28 63.062, must be executed and attached.

29 (f) The petition must include:

30 1. The minor's name, gender, date of birth, and place
31 of birth. The petition must contain all names by which the

1 minor is or has been known, excluding the minor's prospective
2 adoptive name but including the minor's legal name at the time
3 of the filing of the petition, to allow interested parties to
4 the action, including parents, persons having legal custody of
5 the minor, persons with custodial or visitation rights to the
6 minor, and persons entitled to notice pursuant to the Uniform
7 Child Custody Jurisdiction Act or the Indian Child Welfare
8 Act, to identify their own interest in the action.

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

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

20 a. The minor's mother;

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

23 c. Any person who has legal custody, as defined in s.
24 39.01, of the minor.

25
26 If a required name or address is not known, the petition must
27 so state.

28 4. All information required by the Uniform Child
29 Custody Jurisdiction Act and the Indian Child Welfare Act.

30 5. A statement of the grounds under s. 63.089 upon
31 which the petition is based.

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

3 7. The name, address, and telephone number of the
4 division of the circuit court in which the petition is to be
5 filed.

6 8. A certification of compliance with the requirements
7 of s. 63.0425 regarding notice to grandparents of an impending
8 adoption.

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

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

23 (b) Be given an opportunity to deny the allegations in
24 the petition; and

25 (c) Be given the opportunity to challenge the validity
26 of any consent or affidavit of nonpaternity signed by any
27 person.

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

30 63.088 Proceeding to terminate parental rights pending
31 adoption; notice and service; diligent search.--

1 (1) INITIATE LOCATION AND IDENTIFICATION
2 PROCEDURES.--When the location or identity of a person whose
3 consent to an adoption is required but is not known, the
4 adoption entity must begin the inquiry and diligent search
5 process required by this section not later than 7 days after
6 the date on which the person seeking to place a minor for
7 adoption has evidenced in writing to the entity a desire to
8 place the minor for adoption with that entity, or not later
9 than 7 days after the date any money is provided as permitted
10 under this chapter by the adoption entity for the benefit of
11 the person seeking to place a minor for adoption.

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

23
24 NOTICE OF PETITION AND HEARING
25 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION
26
27 A petition to terminate parental rights pending
28 adoption has been filed. A copy of the petition
29 is being served with this notice. There will be
30 a hearing on the petition to terminate parental
31 rights pending adoption on ... (date) ... at

1 ... (time) ... before ... (judge) ... at ...
2 (location, including complete name and street
3 address of the courthouse) The court has
4 set aside ... (amount of time) ... for this
5 hearing. If you executed a consent to adoption
6 or an affidavit of nonpaternity and a waiver of
7 venue, you have the right to request that the
8 termination of parental rights hearing be
9 transferred to the county in which you reside.
10 You may object by appearing at the hearing or
11 filing a written objection with the court.

12
13 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
14 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
15 THE COURT OR TO APPEAR AT THIS HEARING
16 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL
17 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING
18 THE MINOR CHILD.

19
20 (3) REQUIRED INQUIRY.--In proceedings initiated under
21 s. 63.087, the court must conduct an inquiry of the person who
22 is placing the minor for adoption and of any relative or
23 person having legal custody of the minor who is present at the
24 hearing and likely to have the following information regarding
25 the identity of:

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

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

31

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

3 (d) Any person the mother has reason to believe may be
4 the father and from whom she has received payments or promises
5 of support with respect to the minor or because of her
6 pregnancy;

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

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

12 (g) Any person the mother has reason to believe may be
13 the father.

14
15 The information required under this subsection may be provided
16 to the court in the form of a sworn affidavit by a person
17 having personal knowledge of the facts, addressing each
18 inquiry enumerated in this subsection, except that, if the
19 inquiry identifies a father under paragraph (a) or paragraph
20 (b), the inquiry shall not continue further. The inquiry
21 required under this subsection may be conducted before the
22 birth of the minor.

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

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

4 (b) The last known employment of the person, including
5 the name and address of the person's employer. Inquiry should
6 be made of the last known employer as to any address to which
7 wage and earnings statements (W-2 forms) of the person have
8 been mailed. Inquiry should be made of the last known employer
9 as to whether the person is eligible for a pension or
10 profit-sharing plan and any address to which pension or other
11 funds have been mailed;

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

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

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

25 (f) Telephonel listings in the area where the person
26 last resided;

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

29 (h) Highway patrol records in the state where the
30 person last resided;

31

1 (i) Department of Corrections records in the state
2 where the person last resided;

3 (j) Hospitals in the area where the person last
4 resided;

5 (k) Records of utility companies, including water,
6 sewer, cable television, and electric companies, in the area
7 where the person last resided;

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

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

12 (n) Search of one Internet databank locator service;
13 and

14 (o) Information held by all medical providers who
15 rendered medical treatment or care to the birth mother and
16 child, including the identity and location information of all
17 persons listed by the mother as being financially responsible
18 for the uninsured expenses of treatment or care and all
19 persons who made any such payments.

20
21 Any person contacted by a petitioner or adoption entity who is
22 requesting information pursuant to this subsection must
23 release the requested information to the petitioner or
24 adoption entity, except when prohibited by law, without the
25 necessity of a subpoena or court order. An affidavit of
26 diligent search executed by the petitioner and the adoption
27 entity must be filed with the court confirming completion of
28 each aspect of the diligent search enumerated in this
29 subsection and specifying the results. The diligent search
30 required under this subsection may be conducted before the
31 birth of the minor.

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

22 Section 18. Section 63.089, Florida Statutes, is
23 created to read:

24 63.089 Proceeding to terminate parental rights pending
25 adoption; hearing; grounds; dismissal of petition; judgment.--

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

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

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

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

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

5 3. Notice has been provided under ss. 63.087 and
6 63.088;

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

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

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

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

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

18 (d) The petition contains all information required
19 under s. 63.087 and all affidavits of inquiry, diligent
20 search, and service required under s. 63.088 have been
21 obtained and filed with the court.

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

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

31

1 (b) Has executed an affidavit of nonpaternity and the
2 affidavit was obtained according to the requirements of this
3 chapter;

4 (c) Has been properly served notice of the proceeding
5 in accordance with the requirements of this chapter and has
6 failed to file a written answer or appear at the evidentiary
7 hearing resulting in the judgment terminating parental rights
8 pending adoption;

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

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

16 (f) Is a person who has legal custody of the person to
17 be adopted, other than a parent, who has failed to respond in
18 writing to a request for consent for a period of 60 days or,
19 after examination of his or her written reasons for
20 withholding consent, is found by the court to be withholding
21 his or her consent unreasonably;

22 (g) Has been properly served notice of the proceeding
23 in accordance with the requirements of this chapter, but whom
24 the court finds, after examining written reasons for the
25 withholding of consent, to be unreasonably withholding his or
26 her consent; or

27 (h) Is the spouse of the person to be adopted who has
28 failed to consent, and the failure of the spouse to consent to
29 the adoption is excused by reason of prolonged and unexplained
30 absence, unavailability, incapacity, or circumstances that are
31

1 found by the court to constitute unreasonable withholding of
2 consent.

3 (4) FINDING OF ABANDONMENT.--A finding of abandonment
4 resulting in a termination of parental rights must be based
5 upon clear and convincing evidence. A finding of abandonment
6 may not be based upon a lack of emotional support to a birth
7 mother during her pregnancy, but may be based upon emotional
8 abuse to a birth mother during her pregnancy.

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

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

16 2. Whether other persons prevented the person alleged
17 to have abandoned the child from making the efforts referenced
18 in this subsection;

19 3. Whether the person alleged to have abandoned the
20 child, while being able, refused to provide financial support
21 after such person was informed he may be the father of the
22 child;

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

28 5. Whether the amount of support provided or medical
29 expenses paid was appropriate, taking into consideration the
30 needs of the child and relative means and resources available
31 to the person alleged to have abandoned the child and

1 available to the person having legal custody of the child
2 during the period the child allegedly was abandoned; and

3 6. Whether the person having legal custody of the
4 child made the child's whereabouts known to the person alleged
5 to have abandoned the child, advised that person of the needs
6 of the child or the needs of the mother of an unborn child
7 with regard to the pregnancy, or informed that person of
8 events such as medical appointments and tests relating to the
9 child or, if unborn, the pregnancy.

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

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

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

1 Columbia, the United States or any possession or territory
2 thereof, or any foreign jurisdiction; or

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

8 (c) The only conduct of a father toward a mother
9 during pregnancy that the court may consider in determining
10 whether the child has been abandoned is conduct that occurred
11 after the father was informed he may be the father of the
12 child or after diligent search and notice as provided in s.
13 63.088 have been made to inform the father that he is, or may
14 be, the father of the child.

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

1 regarding the minor must be brought in a separate custody
2 action under chapter 61, a dependency action under chapter 39,
3 or a paternity action under chapter 742.

4 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
5 ADOPTION.--

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

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

14 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
15 RIGHTS.--

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

28 (b) No later than 30 days after the filing of a motion
29 under this subsection, the court must conduct a preliminary
30 hearing to determine what contact, if any, shall be permitted
31 between a parent and the child pending resolution of the

1 motion. Such contact shall be considered only if it is
2 requested by a parent who has appeared at the hearing. If the
3 court orders contact between a parent and child, the order
4 must be issued in writing as expeditiously as possible and
5 must state with specificity any provisions regarding contact
6 with persons other than those with whom the child resides.

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

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

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

29 Section 19. Section 63.092, Florida Statutes, is
30 amended to read:
31

1 63.092 Report to the court of intended placement by an
2 adoption entity; at-risk placement intermediary; preliminary
3 study.--

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

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

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

1 placed in the prospective adoptive home prior to the
2 completion of the preliminary study unless ordered by the
3 court. If the petitioner is a stepparent, a spouse of the
4 ~~birth~~ parent, or a relative, the preliminary home study may be
5 required by the court for good cause shown. The department is
6 required to perform the preliminary home study only if there
7 is no licensed child-placing agency, a child-caring agency
8 registered under s. 409.176, licensed professional, or agency
9 described in s. 61.20(2), in the county where the prospective
10 adoptive parents reside. The preliminary home study must be
11 made to determine the suitability of the intended adoptive
12 parents and may be completed prior to identification of a
13 prospective adoptive minor ~~child~~. A favorable preliminary
14 home study is valid for 1 year after the date of its
15 completion. Upon its completion, a copy of the home study must
16 be provided to the intended adoptive parents who were the
17 subject of the home study. A minor may ~~child must~~ not be
18 placed in an intended adoptive home before a favorable
19 preliminary home study is completed unless the adoptive home
20 is also a licensed foster home under s. 409.175. The
21 preliminary home study must include, at a minimum:
22 (a) An interview with the intended adoptive parents;
23 (b) Records checks of the department's central abuse
24 registry and criminal records correspondence checks pursuant
25 to s. 435.045 through the Department of Law Enforcement on the
26 intended adoptive parents;
27 (c) An assessment of the physical environment of the
28 home;
29 (d) A determination of the financial security of the
30 intended adoptive parents;
31

1 (e) Documentation of counseling and education of the
2 intended adoptive parents on adoptive parenting;

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

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

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

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

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

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

29 63.097 Fees.--
30
31

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

4 (a) Foster care expenses;

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

6 and

7 (c) Agency facility and administrative costs.

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

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

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

20 (b) Reasonable and necessary medical expenses.

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

26 (d) Court filing expenses, court costs, and other
27 litigation expenses.

28 (e) Costs associated with advertising under s.
29 63.212(1)(g).

30 (f) The following professional fees:

31

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

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

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

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

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

26 (b) \$500 in court costs;

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

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

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

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

7 (a) Any fee or expense that constitutes payment for
8 locating a minor for adoption.

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

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

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

26 ~~(6)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--Unless~~
27 otherwise indicated in this section, when an adoption entity
28 intermediary uses the services of a licensed child-placing
29 agency, a professional, any other person or agency pursuant to
30 s. 63.092, or, if necessary, the department, the person
31 seeking to adopt the child must pay the licensed child-placing

1 agency, professional, other person or agency, or the
2 department an amount equal to the cost of all services
3 performed, including, but not limited to, the cost of
4 conducting the preliminary home study, counseling, and the
5 final home investigation. The court, upon a finding that the
6 person seeking to adopt the child is financially unable to pay
7 that amount, may order that such person pay a lesser amount.

8 Section 21. Section 63.102, Florida Statutes, is
9 amended to read:

10 63.102 Filing of petition for adoption or declaratory
11 statement; venue; proceeding for approval of fees and costs.--

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

26 (2) A petition for adoption or for a declaratory
27 statement as to the adoption contract shall be filed in the
28 county where the petition for termination of parental rights
29 was granted, unless the court in accordance with s. 47.122,
30 changes the venue to the county where the petitioner or
31 petitioners or the minor child resides or where the adoption

1 entity with ~~agency in~~ in which the minor child has been placed is
2 located. The circuit court in this state must retain
3 jurisdiction over the matter until a final judgment is entered
4 on the adoption. The Uniform Child Custody Jurisdiction Act
5 does not apply until a final judgment is entered on the
6 adoption.

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

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

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

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

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

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

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

27 (e) When a petition for a declaratory statement as to
28 the adoption contract is filed prior to the commencement of
29 proceedings to terminate parental rights, it must be filed in
30 accordance with the venue requirements for the filing of the
31 petition terminating parental rights under s. 63.087. Pursuant

1 to s. 63.087, a previously filed petition for a declaratory
2 statement filed under this section must be consolidated with a
3 related subsequently filed petition for termination of
4 parental rights. If the petition for declaratory statement is
5 filed after the judgment terminating parental rights has been
6 entered, the action for declaratory statement must be
7 consolidated with any related petition for adoption. Only one
8 filing fee may be assessed for both the adoption and
9 declaratory statement petitions.

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

15 Section 22. Section 63.112, Florida Statutes, is
16 amended to read:

17 63.112 Petition for adoption; description; report or
18 recommendation, exceptions; mailing.--

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

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

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

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

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

30
31

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

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

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

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

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

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

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

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

25 (c) A copy of any declaratory statement previously
26 entered by the court pursuant to s. 63.102.

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

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

31

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

3 ~~3. the minor child, if older than 12 years of age,~~
4 ~~unless the court, in the best interest of the minor child,~~
5 ~~dispenses with the minor's child's consent under s.~~
6 ~~63.062(1)(f)~~63.062(1)(c)~~.~~

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

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

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

19 Section 23. Section 63.122, Florida Statutes, is
20 amended to read:

21 63.122 Notice of hearing on petition.--

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

31

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

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

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

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

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

16 ~~(b) The intermediary.~~

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

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

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

27 Section 24. Section 63.125, Florida Statutes, is
28 amended to read:

29 63.125 Final home investigation.--

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

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

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

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

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

29 (5) The final home investigation must include:

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

31

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

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

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

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

12 Section 25. Section 63.132, Florida Statutes, is
13 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (a) Contrary to this chapter;

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

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

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

12 Section 26. Section 63.142, Florida Statutes, is
13 amended to read:

14 63.142 Hearing; judgment of adoption.--

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

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

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

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

25 (3) DISMISSAL.--

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

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

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

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

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

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

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

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

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

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

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

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

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

16 Section 28. Section 63.165, Florida Statutes, is
17 amended to read:

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

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

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

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

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

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

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

7 63.202 Authority to license; adoption of rules.--

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

11 Section 30. Section 63.207, Florida Statutes, is
12 amended to read:

13 63.207 Out-of-state placement.--

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

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

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

1 pursuant to s. 63.102 for prior approval of fees and costs.
2 The court shall review the costs pursuant to s. 63.097. The
3 petition for declaratory statement must be converted to a
4 petition for an adoption upon placement of the minor child in
5 the home. The circuit court in this state must retain
6 jurisdiction over the matter until the adoption becomes final.
7 The prospective adoptive parents must come to this state to
8 have the adoption finalized. Violation of the order subjects
9 the adoption entity intermediary to contempt of court and to
10 the penalties provided in s. 63.212.

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

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

20 Section 31. Section 63.212, Florida Statutes, is
21 amended to read:

22 63.212 Prohibited acts; penalties for violation;
23 preplanned adoption agreement.--

24 (1) It is unlawful for any person:

25 (a) ~~Except the department, an intermediary, or an~~
26 ~~agency,~~To place or attempt to place a minor child for
27 adoption with a person who primarily lives and works outside
28 this state unless the minor child is placed with a relative
29 within the third degree or with a stepparent. ~~An intermediary~~
30 ~~may place or attempt to place a special needs child for~~
31 ~~adoption with a person who primarily lives and works outside~~

1 ~~this state only if the intermediary has a declaratory~~
2 ~~statement from the court establishing the fees to be paid.~~
3 This requirement does not apply if the minor child is placed
4 by an adoption entity in accordance with s. 63.207 with a
5 ~~relative within the third degree or with a stepparent.~~

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

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

27 ~~(c)(d) To sell or surrender, or to arrange for the~~
28 ~~sale or surrender of, a minor child to another person for~~
29 ~~money or anything of value or to receive such minor child for~~
30 ~~such payment or thing of value. If a minor child is being~~
31 ~~adopted by a relative within the third degree or by a~~

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

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

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

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

24 (g)(h) Except an adoption entity ~~the Department of~~
25 ~~Children and Family Services, an agency, or an intermediary,~~
26 to advertise or offer to the public, in any way, by any medium
27 whatever that a minor child is available for adoption or that
28 a minor child is sought for adoption; and, further, it is
29 unlawful for any person to publish or broadcast any such
30 advertisement without including a Florida license number of
31

1 the agency ~~or, attorney, or physician~~ placing the
2 advertisement.

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

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

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

27 b. Constitute consent of a mother to place her child
28 for adoption until 7 days following birth, and unless the
29 court making the custody determination or approving the
30 adoption determines that the mother was aware of her right to
31

1 rescind within the 7-day period following birth but chose not
2 to rescind such consent.

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

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

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

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

26 d. That an intended father who is also the biological
27 father acknowledges that he is aware that he will assume
28 parental rights and responsibilities for the child as
29 otherwise provided by law for a father, if the agreement is
30 terminated for any reason by any party before final transfer

31

1 of custody is completed or if the planned adoption is not
2 approved by the court pursuant to the Florida Adoption Act.

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

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

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

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

23 i. That the agreement may be terminated at any time by
24 any of the parties.

25 3. A preplanned adoption agreement shall not contain
26 any provision:

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

31

1 b. Requiring the termination of the volunteer mother's
2 pregnancy.

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

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

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

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

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

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

28 d. "Intended father" means a male who, as evidenced by
29 a preplanned adoption agreement, intends to have the parental
30 rights and responsibilities for a child conceived through a
31

1 fertility technique, regardless of whether the child is
2 biologically related to the male.

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

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

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

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

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

1 of the intended father and intended mother her parental rights
2 and responsibilities to the child.

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

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

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

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

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

27 (4)(3) It is unlawful for any adoption entity
28 ~~intermediary~~ to fail to report to the court, prior to
29 placement, the intended placement of a minor child for
30 purposes of adoption with any person not a stepparent or a
31

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. Section 395.1024, Florida Statutes, is
19 created to read:

20 395.1024 Patients consenting to adoptions;
21 protocols.--

22 (1) Each licensed facility shall adopt a protocol
23 that, at a minimum, provides for facility staff to be
24 knowledgeable of the waiting periods, revocation and the
25 contents of the consent to adoption as contained in s.
26 63.082(4), and describes the supportive and unbiased manner in
27 which facility staff will interact with birth parents and
28 prospective adoptive parents regarding the adoption, in
29 particular during the waiting period required in s.
30 63.082(4)(b) before consenting to an adoption.

31

1 (2) The protocol shall be in writing and be provided
2 upon request to any birth parent or prospective parent of a
3 child born in the facility.

4 Section 35. Section 383.310, Florida Statutes, is
5 created to read:

6 383.310 Patients consenting to adoptions; protocols.--

7 (1) Each licensed facility shall adopt a protocol
8 that, at a minimum, provides for facility staff to be
9 knowledgeable of the waiting periods, revocation and the
10 contents of the consent to adoption as contained in s.
11 63.082(4), and describes the supportive and unbiased manner in
12 which facility staff will interact with birth parents and
13 prospective adoptive parents regarding the adoption, in
14 particular during the waiting period required in s.
15 63.082(4)(b) before consenting to an adoption.

16 (2) The protocol shall be in writing and be provided
17 upon request to any birth parent or prospective parent of a
18 child born in the facility.

19 Section 36. Subsection (39) of section 984.03, Florida
20 Statutes, is amended to read:

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

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

1 Section 37. 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 38. Section 63.072, Florida Statutes, is
15 repealed.

16 Section 39. 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 40. 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 41. This act shall take effect October 1,
26 2001.

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