

By the Committees on Children and Families; Judiciary; and  
Senator Campbell

300-2282-02

1                                   A bill to be entitled  
2           An act relating to adoption; amending ss.  
3           63.039, 63.082, 63.085, 63.089, F.S.; amending  
4           conditions pertaining to fraud or duress;  
5           amending s. 63.0423, F.S.; revising the period  
6           within which a motion for a termination of  
7           parental rights pending adoption must be filed;  
8           amending s. 63.062, F.S.; revising requirements  
9           for notifying a father of an impending  
10          adoption; amending s. 63.082, F.S.; revising  
11          requirements relating to interviews preceding  
12          consent to adoption; revising the time period  
13          for revocation of an adoption; revising certain  
14          notice requirements; amending s. 63.085, F.S.;  
15          revising the period for an adoption entity to  
16          make certain disclosures to a person seeking to  
17          place a minor; conforming notice requirements  
18          to changes made by the act; amending s. 63.088,  
19          F.S.; revising the period in which to begin  
20          procedures to locate certain parties to an  
21          adoption; revising inquiry and search  
22          procedures that the court must follow, by  
23          including persons listed in the paternity  
24          registry; amending ss. 63.102, 63.122, F.S.;  
25          providing that a plea for termination of  
26          parental rights and for adoption may be  
27          combined in a single petition and considered by  
28          the court during a single hearing if the  
29          adoption is by a stepparent or a relative  
30          within the third degree and the parent whose  
31          rights are to be terminated has executed a

1 consent; amending ss. 63.089, 63.142, 63.182,  
2 F.S.; revising the period for filing a motion  
3 to void a judgment terminating parental rights  
4 pending adoption; amending s. 63.165, F.S.;  
5 requiring the Department of Children and Family  
6 Services to maintain a paternity registry  
7 within the state registry of adoption  
8 information; providing duties of registrants  
9 and the department; providing a penalty;  
10 providing use and admissibility of registry  
11 information; providing for a fee; providing  
12 rulemaking authority; providing applicability  
13 of the act; amending s. 63.172, F.S.;  
14 eliminating an exception for rights of  
15 inheritance with respect to the effect of a  
16 judgment of adoption; amending s. 63.182, F.S.;  
17 revising the statute of repose; amending s.  
18 63.192, F.S.; providing for a court to  
19 recognize a foreign judgment concerning an  
20 adoption upon a finding that the foreign order  
21 is authentic; providing that such finding  
22 entitles the adoptee to a certificate of  
23 foreign birth; repealing s. 63.185, F.S.,  
24 relating to a residency requirement; providing  
25 an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Subsection (2) of section 63.039, Florida  
30 Statutes, is amended to read:

31

1           63.039 Duty of adoption entity to prospective adoptive  
2 parents; sanctions.--

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

20           Section 2. Paragraph (a) of subsection (9) of section  
21 63.0423, Florida Statutes, is amended to read:

22           63.0423 Procedures with respect to abandoned  
23 newborns.--

24           (9)(a) A judgment terminating parental rights pending  
25 adoption is voidable, and any later judgment of adoption of  
26 that minor is voidable, if, upon the motion of a parent, the  
27 court finds that a person knowingly gave false information  
28 that prevented the parent from timely making known his or her  
29 desire to assume parental responsibilities toward the minor or  
30 from exercising his or her parental rights. A motion under  
31 this subsection must be filed with the court originally

1 entering the judgment. The motion must be filed within a  
2 reasonable time, but not later than 1 year ~~2 years~~ after the  
3 entry of the judgment terminating parental rights.

4 Section 3. Paragraph (e) of subsection (1) of section  
5 63.062, Florida Statutes, is amended, and paragraph (h) is  
6 added to that subsection, to read:

7 63.062 Persons required to consent to adoption;  
8 affidavit of nonpaternity; waiver of venue.--

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

15 (e) Any father ~~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 (h) Any man who has timely registered with the  
19 paternity registry as the father of the child.

20 Section 4. Paragraph (a) of subsection (3), paragraphs  
21 (b) and (e) of subsection (4), subsection (6) and paragraphs  
22 (a), (f), and (g) of subsection (7) of section 63.082, Florida  
23 Statutes, are amended to read:

24 63.082 Execution of consent to adoption or affidavit  
25 of nonpaternity; family social and medical history; withdrawal  
26 of consent.--

27 (3)(a) The department must provide a consent form and  
28 a family social and medical history form to an adoption entity  
29 that intends to place a child for adoption. Forms containing,  
30 at a minimum, the same information as the forms promulgated by  
31 the department must be attached to the petition to terminate

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

17 (4)

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

1 (e) A consent to adoption must contain, in at least  
2 16-point boldfaced type, an acknowledgment of the parent's  
3 rights in substantially the following form:

4  
5 CONSENT TO ADOPTION

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

16  
17 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU  
18 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING  
19 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

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

31

1 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP  
2 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID  
3 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY  
4 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A  
5 CHILD WHO IS TO BE PLACED FOR ADOPTION WITH  
6 IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON  
7 THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR  
8 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD  
9 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT  
10 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE  
11 TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS  
12 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT  
13 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO  
14 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH  
15 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY  
16 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE  
17 SIGNED THE CONSENT, IT IS VALID AND BINDING AND  
18 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT  
19 IT WAS OBTAINED BY FRAUD OR ~~UNDER~~ DURESS.

20  
21 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO  
22 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S  
23 RELEASE FROM A LICENSED HOSPITAL OR BIRTH  
24 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE  
25 CONSENT AT ANY TIME AFTER THE BIRTH OF THE  
26 CHILD. WHILE THE CONSENT IS VALID AND BINDING  
27 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.  
28 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN  
29 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW  
30 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR  
31 TO THE PLACEMENT OF THE CHILD WITH THE

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



1           IN WRITING BY CERTIFIED UNITED STATES MAIL,  
2           RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY  
3           YOU SHOULD NOTIFY IS: ...(name of adoption  
4           entity)..., ...(address of adoption entity)...,  
5           ...(phone number of adoption entity)....  
6

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

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

30           (7)(a) A consent that is being withdrawn under  
31 paragraph (4)(c) may be withdrawn at any time prior to the

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

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

15 (g) An affidavit of nonpaternity may be withdrawn only  
16 if the court finds that the affidavit was obtained by fraud or  
17 ~~under~~ duress.

18 Section 5. Subsection (1) of section 63.085, Florida  
19 Statutes, is amended to read:

20 63.085 Disclosure by adoption entity.--

21 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE  
22 ADOPTIVE PARENTS.--Not later than 14 ~~7~~ days after a person  
23 seeking to adopt a minor or a person seeking to place a minor  
24 for adoption contacts an adoption entity in person or provides  
25 the adoption entity with a mailing address, the entity must  
26 provide a written disclosure statement to that person if the  
27 entity agrees or continues to work with such person. If an  
28 adoption entity is assisting in the effort to terminate the  
29 parental rights of a parent who did not initiate the contact  
30 with the adoption entity, the written disclosure must be  
31 provided within 14 ~~7~~ days after that parent is identified and

1 located. For purposes of providing the written disclosure, a  
2 person is considered to be seeking to place a minor for  
3 adoption when that person has sought information or advice  
4 from the adoption entity regarding the option of adoptive  
5 placement. The written disclosure statement must be in  
6 substantially the following form:

7  
8 ADOPTION DISCLOSURE  
9

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to seek independent legal advice and  
2 representation before signing any document or  
3 surrendering parental rights.

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

16 13. Under section 63.089, Florida  
17 Statutes, a judgment terminating parental  
18 rights pending adoption is voidable and any  
19 later judgment of adoption of that minor is  
20 voidable if, upon the motion of a parent, the  
21 court finds that any person knowingly gave  
22 false information that prevented the parent  
23 from timely making known his or her desire to  
24 assume parental responsibilities toward the  
25 minor or to exercise his or her parental  
26 rights. The motion must be filed with the court  
27 that originally entered the judgment. The  
28 motion must be filed within a reasonable time,  
29 but not later than 1 year ~~2 years~~ after the  
30 date the judgment to which the motion is  
31 directed was entered.

1           14. Under section 63.165, Florida  
2 Statutes, the State of Florida maintains a  
3 registry of adoption information which includes  
4 a paternity registry. Information about the  
5 registry is available from the Department of  
6 Children and Family Services.

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

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

26           17. Counseling services may be helpful  
27 while making a parenting decision. Consult the  
28 yellow pages of the telephone directory.

29           18. Medical and social services support  
30 is available if the parent wishes to retain  
31



1 parental rights and responsibilities. Consult  
2 the Department of Children and Family Services.  
3 19. Under section 63.039, Florida  
4 Statutes, an adoption entity has certain legal  
5 responsibilities and may be liable for damages  
6 to persons whose consent to an adoption is  
7 required or to prospective adoptive parents for  
8 failing to materially meet those  
9 responsibilities. Damages may also be recovered  
10 from an adoption entity if a consent to  
11 adoption or affidavit of nonpaternity is  
12 obtained by fraud or ~~under~~ duress attributable  
13 to an adoption entity.  
14 20. Under section 63.097, Florida  
15 Statutes, reasonable living expenses of the  
16 birth mother may be paid by the prospective  
17 adoptive parents and the adoption entity only  
18 if the birth mother is unable to pay due to  
19 unemployment, underemployment, or disability.  
20 The law also allows payment of reasonable and  
21 necessary medical expenses, expenses necessary  
22 to comply with the requirements of chapter 63,  
23 Florida Statutes, court filing expenses, and  
24 costs associated with advertising. Certain  
25 documented legal, counseling, and other  
26 professional fees may be paid. Prior approval  
27 of the court is not required until the  
28 cumulative total of amounts permitted exceeds  
29 \$2,500 in legal or other fees, \$500 in court  
30 costs, \$3,000 in expenses, or \$1,500 in  
31 cumulative expenses incurred prior to the date

1 the prospective adoptive parent retains the  
2 adoption entity. The following fees, costs, and  
3 expenses are prohibited:

4 a. Any fee or expense that constitutes  
5 payment for locating a minor for adoption.

6 b. Any lump-sum payment to the entity  
7 which is nonrefundable directly to the payor or  
8 which is not itemized on the affidavit.

9 c. Any fee on the affidavit which does  
10 not specify the service that was provided and  
11 for which the fee is being charged, such as a  
12 fee for facilitation or acquisition.

13

14 The court may reduce amounts charged or refund  
15 amounts that have been paid if it finds that  
16 these amounts were more than what was  
17 reasonable or allowed under the law.

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

29 22. Under section 63.132, Florida  
30 Statutes, the court order approving the money  
31 spent on the adoption must be separate from the

1 judgment making the adoption final. The court  
2 may approve only certain costs and expenses  
3 allowed under section 63.097, Florida Statutes.  
4 The court may approve only fees that are  
5 allowed under law and that it finds to be  
6 "reasonable." A good idea of what is and is not  
7 allowed to be paid for in an adoption can be  
8 determined by reading sections 63.097 and  
9 63.132, Florida Statutes.  
10 Section 6. Subsections (1), (3), and (4) of section  
11 63.088, Florida Statutes, are amended to read:  
12 63.088 Proceeding to terminate parental rights pending  
13 adoption; notice and service; diligent search.--  
14 (1) INITIATE LOCATION AND IDENTIFICATION  
15 PROCEDURES.--When the location or identity of a person whose  
16 consent to an adoption is required but is not known, the  
17 adoption entity must begin the inquiry and diligent search  
18 process required by this section not later than 14 7 days  
19 after the date on which the person seeking to place a minor  
20 for adoption has evidenced in writing to the entity a desire  
21 to place the minor for adoption with that entity, or not later  
22 than 14 7 days after the date any money is provided as  
23 permitted under this chapter by the adoption entity for the  
24 benefit of the person seeking to place a minor for adoption.  
25 (3) REQUIRED INQUIRY.--In proceedings initiated under  
26 s. 63.087, the court must conduct an inquiry of the person who  
27 is placing the minor for adoption and of any relative or  
28 person having legal custody of the minor who is present at the  
29 hearing and likely to have the following information regarding  
30 the identity of:  
31

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

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

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

8 (d) Any person the mother has reason to believe may be  
9 the father and from whom she has received payments or promises  
10 of support with respect to the minor or because of her  
11 pregnancy;

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

15 (f) Any person who has acknowledged or claimed  
16 paternity of the minor; ~~and~~

17 (g) Any person the mother has reason to believe may be  
18 the father; ~~and-~~

19 (h) Any person who has registered with the paternity  
20 registry as the father of the child.

21  
22 The information required under this subsection may be provided  
23 to the court in the form of a sworn affidavit by a person  
24 having personal knowledge of the facts, addressing each  
25 inquiry enumerated in this subsection, except that, if the  
26 inquiry identifies a father under paragraph (a) or paragraph  
27 (b), the inquiry shall not continue further. The inquiry  
28 required under this subsection may be conducted before the  
29 birth of the minor.

30 (4) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry  
31 by the court under subsection (3) identifies any person whose

1 consent to adoption is required under s. 63.062 and who has  
2 not executed a consent to adoption or an affidavit of  
3 nonpaternity, and the location of the person from whom consent  
4 is required is unknown, the adoption entity must conduct a  
5 diligent search for that person which must include inquiries  
6 concerning:

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

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

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

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

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

31

1           (f) Telephone listings in the area where the person  
2 last resided;  
3           (g) Inquiries of law enforcement agencies in the area  
4 where the person last resided;  
5           (h) Highway patrol records in the state where the  
6 person last resided;  
7           (i) Department of Corrections records in the state  
8 where the person last resided;  
9           (j) Hospitals in the area where the person last  
10 resided;  
11           (k) Records of utility companies, including water,  
12 sewer, cable television, and electric companies, in the area  
13 where the person last resided;  
14           (l) Records of the Armed Forces of the United States  
15 as to whether there is any information as to the person;  
16           (m) Records of the tax assessor and tax collector in  
17 the area where the person last resided;  
18           (n) Search of one Internet databank locator service;  
19 ~~and~~  
20           (o) Information held by all medical providers who  
21 rendered medical treatment or care to the birth mother and  
22 child, including the identity and location information of all  
23 persons listed by the mother as being financially responsible  
24 for the uninsured expenses of treatment or care and all  
25 persons who made any such payments; ~~and-~~  
26           (p) The paternity registry pursuant to s. 63.165.  
27  
28 Any person contacted by a petitioner or adoption entity who is  
29 requesting information pursuant to this subsection must  
30 release the requested information to the petitioner or  
31 adoption entity, except when prohibited by law, without the

1 necessity of a subpoena or court order. An affidavit of  
2 diligent search executed by the petitioner and the adoption  
3 entity must be filed with the court confirming completion of  
4 each aspect of the diligent search enumerated in this  
5 subsection and specifying the results. The diligent search  
6 required under this subsection may be conducted before the  
7 birth of the minor.

8 Section 7. Subsection (5) and paragraph (a) of  
9 subsection (7) of section 63.089, Florida Statutes, are  
10 amended to read:

11 63.089 Proceeding to terminate parental rights pending  
12 adoption; hearing; grounds; dismissal of petition; judgment.--

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

1 action under chapter 61, a dependency action under chapter 39,  
2 or a paternity action under chapter 742.

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

5 (a) A judgment terminating parental rights pending  
6 adoption is voidable and any later judgment of adoption of  
7 that minor is voidable if, upon the motion of a parent, the  
8 court finds that a person knowingly gave false information  
9 that prevented the parent from timely making known his or her  
10 desire to assume parental responsibilities toward the minor or  
11 meeting the requirements under this chapter to exercise his or  
12 her parental rights. A motion under this subsection must be  
13 filed with the court originally entering the judgment. The  
14 motion must be filed within a reasonable time, but not later  
15 than 1 year ~~2 years~~ after the entry of the judgment  
16 terminating parental rights.

17 Section 8. Subsection (1) of section 63.102, Florida  
18 Statutes, is amended to read:

19 63.102 Filing of petition for adoption or declaratory  
20 statement; venue; proceeding for approval of fees and costs.--

21 (1) A petition for adoption may not be filed until 30  
22 days after the date of the entry of the judgment terminating  
23 parental rights pending adoption under this chapter, unless  
24 the adoptee is an adult or the minor has been the subject of a  
25 judgment terminating parental rights under chapter 39. If the  
26 adoption is by a stepparent or relative within the third  
27 degree and the parent whose rights are to be terminated has  
28 executed a consent under s. 63.082, the petition for  
29 termination of parental rights and the petition for adoption  
30 may be combined into a single petition.After a judgment  
31 terminating parental rights has been entered, a proceeding for



1 adoption may be commenced by filing a petition entitled, "In  
2 the Matter of the Adoption of ...." in the circuit court. The  
3 person to be adopted shall be designated in the caption in the  
4 name by which he or she is to be known if the petition is  
5 granted. Any name by which the minor was previously known may  
6 not be disclosed in the petition, the notice of hearing, or  
7 the judgment of adoption.

8 Section 9. Subsection (1) of section 63.122, Florida  
9 Statutes, is amended to read:

10 63.122 Notice of hearing on petition.--

11 (1) After the petition to adopt a minor is filed, the  
12 court must establish a time and place for hearing the  
13 petition. The hearing may not be held sooner than 30 days  
14 after the date the judgment terminating parental rights was  
15 entered or sooner than 90 days after the date the minor was  
16 placed in the physical custody of the petitioner. However, if  
17 the adoption is by a stepparent or relative within the third  
18 degree and the parent whose rights are to be terminated has  
19 executed a consent under s. 63.082, the court shall consider  
20 the petition for termination of parental rights and the  
21 petition for adoption in a single hearing.The minor must  
22 remain under the supervision of the adoption entity until the  
23 adoption becomes final. When the petitioner is a spouse of the  
24 birth parent, the hearing may be held immediately after the  
25 filing of the petition.

26 Section 10. Paragraphs (a) and (d) of subsection (4)  
27 of section 63.142, Florida Statutes, are amended to read:

28 63.142 Hearing; judgment of adoption.--

29 (4) JUDGMENT.--At the conclusion of the hearing, after  
30 the court determines that the date for a parent to file an  
31 appeal of a valid judgment terminating that parent's parental

1 rights has passed and no appeal, pursuant to the Florida Rules  
2 of Appellate Procedure, is pending and that the adoption is in  
3 the best interest of the person to be adopted, a judgment of  
4 adoption shall be entered.

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

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

22 Section 11. Section 63.165, Florida Statutes, is  
23 amended to read:

24 63.165 State registry of adoption information; duty to  
25 inform and explain; paternity registry.--

26 (1) STATE REGISTRY OF ADOPTION  
27 INFORMATION.--Notwithstanding any other law to the contrary,  
28 the department shall maintain a registry with the last known  
29 names and addresses of an adoptee and his or her parents whose  
30 consent was required under s. 63.062, and adoptive parents and  
31 any other identifying information that the adoptee, parents

1 whose consent was required under s. 63.062, or adoptive  
2 parents desire to include in the registry. The department  
3 shall maintain the registry records for the time required by  
4 rules adopted by the department in accordance with this  
5 chapter or for 99 years, whichever period is greater. The  
6 registry shall be open with respect to all adoptions in the  
7 state, regardless of when they took place. The registry shall  
8 be available for those persons choosing to enter information  
9 therein, but no one shall be required to do so.

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

28 (b)~~(2)~~ The department may charge a reasonable fee to  
29 any person seeking to enter, change, or use information in the  
30 registry. The department shall deposit such fees in a trust  
31 fund to be used by the department only for the efficient

1 administration of this section. The department and agencies  
2 shall make counseling available for a fee to all persons  
3 seeking to use the registry, and the department shall inform  
4 all affected persons of the availability of such counseling.

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

11 (2) PATERNITY REGISTRY.--Within the state registry of  
12 adoption information, the department shall maintain a  
13 paternity registry.

14 (a) A man is not required to register with the  
15 paternity registry if:

16 1. The minor was conceived or born while he was  
17 married to the mother;

18 2. The minor is his child by adoption; or

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

21 4. The minor has been established to be his child by  
22 scientific tests that are generally acceptable within the  
23 scientific community to show a probability of paternity.

24 (b) The paternity registry does not relieve the mother  
25 of the obligation to identify the known father.

26 (c) A man registering with the paternity registry  
27 shall provide the paternity registry with the following  
28 information in writing:

29 1. The name and the last known address of the mother  
30 of the minor.

31

1           2. The name of the minor, and the location and date of  
2 birth of the minor, if known, or the probable month and year  
3 of the expected birth of the minor.

4           3. The man's name, address, and driver's license  
5 number, or state identification card.

6           4. A statement in which the man claims to be the  
7 father of the named minor.

8  
9 A man who registers with the paternity registry shall promptly  
10 notify the department in writing of any change in the required  
11 information. A person who knowingly provides false information  
12 to the paternity registry commits a misdemeanor of the second  
13 degree and is subject to the provisions of s. 63.212(2).

14           (d) Except as provided in paragraph (a), a man who  
15 claims to be the father of a minor shall register with the  
16 paternity registry. Registration may be accepted by the  
17 department before the birth of the child, but may not be  
18 accepted by the department after the 30th day after the date  
19 of birth of the minor. A man who is required to consent  
20 pursuant to s. 63.062 and who has registered with the  
21 paternity registry is entitled to receive notice of the  
22 petition and hearing to terminate parental rights pending  
23 adoption, as required by s. 63.088.

24           1. A person who has sexual intercourse with a person  
25 of the opposite sex is deemed to have knowledge that sexual  
26 intercourse can result in a woman's pregnancy.

27           2. Ignorance of a pregnancy is not a sufficient reason  
28 for failing to register with the paternity registry.

29           (e) Except as provided in s. 63.062(1)(b)-(f), and  
30 provided that any diligent search required by s. 63.088 has  
31 been completed, any man who fails to register with the

1 paternity registry by the 30th day after the date of birth of  
2 the minor may not assert an interest in the minor except for  
3 an action pursuant to s. 63.089(7).

4 (f) Upon request, the department shall furnish a  
5 certificate attesting to the results of a search of the  
6 paternity registry to:

- 7 1. A court;
- 8 2. The birth mother; or
- 9 3. An adoption entity.

10 (g) If a court determines that a registrant is not the  
11 father of the minor, the court shall order the department to  
12 remove the registrant's name from the paternity registry.

13 (h)1. The department may not charge a fee for the  
14 registration in the paternity registry.

15 2. The department may charge a reasonable fee for  
16 processing a search of the paternity registry pursuant to  
17 paragraph (f). The department shall deposit such fees in a  
18 trust fund to be used by the department only for the efficient  
19 administration of this section.

20 (i) Information maintained by the paternity registry  
21 is admissible in a proceeding in a court or administrative  
22 tribunal of this state for any purpose.

23 (j) The department shall:

24 1. Produce and distribute a pamphlet or publication  
25 informing the public about the paternity registry, including  
26 the procedures, the consequences, and the address of the  
27 paternity registry. The pamphlet or publication must be made  
28 available for distribution at all offices of the department  
29 and the Department of Health. The department shall also  
30 provide such pamphlets or publications to hospitals,  
31 libraries, medical clinics, schools, universities, and county,

1 state, and federal jails and prisons, and other providers of  
2 child-related services, upon request.

3 2. Provide information to the public at large through  
4 general public service announcements, or in other ways deliver  
5 information to the public about the paternity registry.

6 (3) RULES.--The department shall adopt rules necessary  
7 to administer this section.

8 Section 12. Paragraph (c) of subsection (1) of section  
9 63.172, Florida Statutes, is amended to read:

10 63.172 Effect of judgment of adoption.--

11 (1) A judgment of adoption, whether entered by a court  
12 of this state, another state, or of any other place, has the  
13 following effect:

14 (c) ~~Except for rights of inheritance,~~It creates the  
15 relationship between the adopted person and the petitioner and  
16 all relatives of the petitioner that would have existed if the  
17 adopted person were a blood descendant of the petitioner born  
18 within wedlock. This relationship shall be created for all  
19 purposes, including applicability of statutes, documents, and  
20 instruments, whether executed before or after entry of the  
21 adoption judgment, that do not expressly exclude an adopted  
22 person from their operation or effect.

23 Section 13. Section 63.182, Florida Statutes, is  
24 amended to read:

25 63.182 Statute of repose.--Notwithstanding s. 95.031  
26 or s. 95.11 or any other statute,<sup>+</sup>

27 ~~(1)~~ an action or proceeding of any kind to vacate, set  
28 aside, or otherwise nullify a judgment of adoption or an  
29 underlying judgment terminating parental rights on any ground  
30 may not, including duress but excluding fraud, shall in no  
31

1 ~~event~~ be filed more than 1 year after entry of the judgment  
2 terminating parental rights.

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

8 Section 14. Section 63.192, Florida Statutes, is  
9 amended to read:

10 63.192 Recognition of foreign judgment affecting  
11 adoption.--A judgment of court terminating the relationship of  
12 parent and child or establishing the relationship by adoption  
13 issued pursuant to due process of law by a court of any other  
14 jurisdiction within or without the United States shall be  
15 recognized in this state, and the rights and obligations of  
16 the parties on matters within the jurisdiction of this state  
17 shall be determined as though the judgment were issued by a  
18 court of this state. A court of this state shall recognize the  
19 adoption status created by a foreign judgment upon the filing  
20 by the adoptive parents of the foreign judgment, together with  
21 a copy of the foreign order, and upon a finding by the court  
22 that the foreign order is authentic. The petitioner need not  
23 demonstrate that the adoption proceedings or the substantive  
24 rights or due process of law applicable to an adoption under  
25 the laws of the foreign jurisdiction were similar or  
26 equivalent to those of this state at the time the foreign  
27 judgment was entered. An order entered by a court under this  
28 section entitles the adoptee to a certificate of foreign birth  
29 issued pursuant to s. 382.017.

30 Section 15. Section 63.185, Florida Statutes, is  
31 repealed.



1           Section 16. This act shall take effect July 1, 2002.

2

3                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
4                                   COMMITTEE SUBSTITUTE FOR  
5                                   CS for Senate Bill 1518

6

6 Provides for a diligent good faith effort to interview parents  
7 prior to executing the consent to adoption.

8

8 Repeals s. 63.185, F.S., which is one of two statutory  
9 provisions that require that adoptive parents reside or work  
10 in Florida.

11

11 Eliminates the ability to revoke the consent to adoption  
12 within 1 business day after the mother's discharge.

13

13 Increases the time frame from 7 to 14 days for adoption  
14 entities to provide written disclosure and initiate diligent  
15 search efforts.

16

16 Reduces the time period in which action can be filed to  
17 nullify a judgment of adoption or termination of parental  
18 rights from 2 years to 1 year.

19

19 Establishes a paternity registry for fathers claiming to be  
20 the father of a child.

21

21 Removes the exclusion of rights of inheritance from the legal  
22 relationship created with adoption.

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