

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

1
2
3
4
5
6
7
8
9

10

11 Representative(s) Mahon offered the following:

12

13 **Amendment (with title amendment)**

14 Remove everything after the enacting clause

15

16 and insert:

17 Section 1. Paragraph (h) is added to subsection (1) of
18 section 63.062, Florida Statutes, to read:

19 63.062 Persons required to consent to adoption;
20 affidavit of nonpaternity; waiver of venue.--

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

27 (h) Any man who has timely registered with the
28 paternity registry as the father of the child.

29 Section 2. Subsection (1) of section 63.085, Florida
30 Statutes, is amended to read:

31 63.085 Disclosure by adoption entity.--

1 expenses permitted under Florida law does not
2 obligate anyone to sign a consent or ultimately
3 place a minor for adoption.

4 2. Under sections 63.092 and 63.125,
5 Florida Statutes, a favorable preliminary home
6 study, before the minor may be placed in that
7 home, and a final home investigation, before
8 the adoption becomes final, must be completed.

9 3. Under section 63.082, Florida
10 Statutes, a consent to adoption or affidavit of
11 nonpaternity may not be signed until after the
12 birth of the minor.

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

27 5. Under section 63.082, Florida
28 Statutes, if the minor is not placed for
29 adoption with the prospective adoptive parent
30 upon release from the hospital or birth center
31 following birth, a 3-day revocation period

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 applies during which consent may be withdrawn
2 for any reason by notifying the adoption entity
3 in writing. In order to withdraw consent, the
4 written withdrawal of consent must be mailed at
5 a United States Post Office no later than 3
6 business days after execution of the consent or
7 1 business day after the date of the birth
8 mother's discharge from a licensed hospital or
9 birth center, whichever occurs later. For
10 purposes of mailing the withdrawal of consent,
11 the term "business day" means any day on which
12 the United States Postal Service accepts
13 certified mail for delivery. The letter must be
14 sent by certified United States mail, return
15 receipt requested. Postal costs must be paid at
16 the time of mailing and the receipt should be
17 retained as proof that consent was withdrawn in
18 a timely manner.

19 6. Under section 63.082, Florida
20 Statutes, and notwithstanding the revocation
21 period, the consent may be withdrawn at any
22 time prior to the placement of the child with
23 the prospective adoptive parent, by notifying
24 the adoption entity in writing by certified
25 United States mail, return receipt requested.

26 7. Under section 63.082, Florida
27 Statutes, if an adoption entity timely receives
28 written notice from a person of that person's
29 desire to withdraw consent, the adoption entity
30 must contact the prospective adoptive parent to
31 arrange a time certain to regain physical

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 custody of the child. Absent a court order for
2 continued placement of the child entered under
3 section 63.082, Florida Statutes, the adoption
4 entity must return the minor within 3 days
5 after notification of the withdrawal of consent
6 to the physical custody of the person
7 withdrawing consent. After the revocation
8 period for withdrawal of consent ends, or after
9 the placement of the child with the prospective
10 adoptive parent, whichever occurs later, the
11 consent may be withdrawn only if the court
12 finds that the consent was obtained by fraud or
13 under duress.

14 8. Under section 63.082, Florida
15 Statutes, an affidavit of nonpaternity, once
16 executed, may be withdrawn only if the court
17 finds that it was obtained by fraud or under
18 duress.

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

29 10. Under section 63.088, Florida
30 Statutes, specific and extensive efforts are
31 required by law to attempt to obtain the

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 consents required under section 63.062, Florida
2 Statutes. If these efforts are unsuccessful,
3 the court may not enter a judgment terminating
4 parental rights pending adoption until certain
5 requirements have been met.

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

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

26 13. Under section 63.089, Florida
27 Statutes, a judgment terminating parental
28 rights pending adoption is voidable and any
29 later judgment of adoption of that minor is
30 voidable if, upon the motion of a parent, the
31 court finds that any person knowingly gave

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 false information that prevented the parent
2 from timely making known his or her desire to
3 assume parental responsibilities toward the
4 minor or to exercise his or her parental
5 rights. The motion must be filed with the court
6 that originally entered the judgment. The
7 motion must be filed within a reasonable time,
8 but not later than 1 year ~~2 years~~ after the
9 date the judgment to which the motion is
10 directed was entered.

11 14. Under section 63.165, Florida
12 Statutes, the State of Florida maintains a
13 registry of adoption reunion information.
14 Information about the registry is available
15 from the Department of Children and Family
16 Services.

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

30 16. Each parent and prospective adoptive
31 parent is entitled to independent legal advice

1 and representation. Attorney information may be
2 obtained from the yellow pages, The Florida
3 Bar's lawyer referral service, and local legal
4 aid offices and bar associations.

5 17. Counseling services may be helpful
6 while making a parenting decision. Consult the
7 yellow pages of the telephone directory.

8 18. Medical and social services support
9 is available if the parent wishes to retain
10 parental rights and responsibilities. Consult
11 the Department of Children and Family Services.

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

23 20. Under section 63.097, Florida
24 Statutes, reasonable living expenses of the
25 birth mother may be paid by the prospective
26 adoptive parents and the adoption entity only
27 if the birth mother is unable to pay due to
28 unemployment, underemployment, or disability.
29 The law also allows payment of reasonable and
30 necessary medical expenses, expenses necessary
31 to comply with the requirements of chapter 63,

1 Florida Statutes, court filing expenses, and
2 costs associated with advertising. Certain
3 documented legal, counseling, and other
4 professional fees may be paid. Prior approval
5 of the court is not required until the
6 cumulative total of amounts permitted exceeds
7 \$2,500 in legal or other fees, \$500 in court
8 costs, \$3,000 in expenses, or \$1,500 in
9 cumulative expenses incurred prior to the date
10 the prospective adoptive parent retains the
11 adoption entity. The following fees, costs, and
12 expenses are prohibited:

- 13 a. Any fee or expense that constitutes
14 payment for locating a minor for adoption.
- 15 b. Any lump-sum payment to the entity
16 which is nonrefundable directly to the payor or
17 which is not itemized on the affidavit.
- 18 c. Any fee on the affidavit which does
19 not specify the service that was provided and
20 for which the fee is being charged, such as a
21 fee for facilitation or acquisition.

22
23 The court may reduce amounts charged or refund
24 amounts that have been paid if it finds that
25 these amounts were more than what was
26 reasonable or allowed under the law.

27 21. Under section 63.132, Florida
28 Statutes, the adoption entity and the
29 prospective adoptive parents must sign and file
30 with the court a written statement under oath
31 listing all the fees, expenses, and costs made,

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 or agreed to be made, by or on behalf of the
2 prospective adoptive parents and any adoption
3 entity in connection with the adoption. The
4 affidavit must state whether any of the
5 expenses were eligible to be paid for by any
6 other source.

7 22. Under section 63.132, Florida
8 Statutes, the court order approving the money
9 spent on the adoption must be separate from the
10 judgment making the adoption final. The court
11 may approve only certain costs and expenses
12 allowed under section 63.097, Florida Statutes.
13 The court may approve only fees that are
14 allowed under law and that it finds to be
15 "reasonable." A good idea of what is and is not
16 allowed to be paid for in an adoption can be
17 determined by reading sections 63.097 and
18 63.132, Florida Statutes.

19 Section 3. Paragraphs (f) and (g) of
20 subsection (3) of section 63.088, Florida Statutes,
21 are amended, paragraph (h) is added to said
22 subsection, paragraphs (n) and (o) of subsection (4)
23 are amended, and paragraph (p) is added to subsection
24 (4) of said section, to read:

25 63.088 Proceeding to terminate parental rights pending
26 adoption; notice and service; diligent search.--

27 (3) REQUIRED INQUIRY.--In proceedings initiated under
28 s. 63.087, the court must conduct an inquiry of the person who
29 is placing the minor for adoption and of any relative or
30 person having legal custody of the minor who is present at the
31 hearing and likely to have the following information regarding

1 the identity of:

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

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

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

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

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

25 (n) Search of one Internet databank locator service;
26 ~~and~~

27 (o) Information held by all medical providers who
28 rendered medical treatment or care to the birth mother and
29 child, including the identity and location information of all
30 persons listed by the mother as being financially responsible
31 for the uninsured expenses of treatment or care and all

1 persons who made any such payments; and-

2 (p) The paternity registry pursuant to s. 63.063.

3
4 Any person contacted by a petitioner or adoption entity who is
5 requesting information pursuant to this subsection must
6 release the requested information to the petitioner or
7 adoption entity, except when prohibited by law, without the
8 necessity of a subpoena or court order. An affidavit of
9 diligent search executed by the petitioner and the adoption
10 entity must be filed with the court confirming completion of
11 each aspect of the diligent search enumerated in this
12 subsection and specifying the results. The diligent search
13 required under this subsection may be conducted before the
14 birth of the minor.

15 Section 4. Paragraphs (a) and (c) of subsection (7) of
16 section 63.089, Florida Statutes, are amended to read:

17 63.089 Proceeding to terminate parental rights pending
18 adoption; hearing; grounds; dismissal of petition; judgment.--

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

21 (a) A judgment terminating parental rights pending
22 adoption is voidable and any later judgment of adoption of
23 that minor is voidable if, upon the motion of a parent, the
24 court finds that a person knowingly gave false information
25 that prevented the parent from timely making known his or her
26 desire to assume parental responsibilities toward the minor or
27 meeting the requirements under this chapter to exercise his or
28 her parental rights. A motion under this subsection must be
29 filed with the court originally entering the judgment. The
30 motion must be filed within a reasonable time, but not later
31 than 1 year ~~2 years~~ after the entry of the judgment

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 terminating parental rights.

2 (c) At the preliminary hearing, the court, upon the
3 motion of any party or upon its own motion, may order
4 scientific testing to determine the paternity of the minor if
5 the person seeking to set aside the judgment is alleging to be
6 the child's father and that fact has not previously been
7 determined by legitimacy or scientific testing. The court may
8 not order such testing, nor are the results of any such test
9 admissible, after the time period specified by s. 63.182.The
10 court may order supervised visitation with a person for whom
11 scientific testing for paternity has been ordered. Such
12 visitation shall be conditioned upon the filing of those test
13 results with the court and such results establishing that
14 person's paternity of the minor.

15 Section 5. Paragraphs (a) and (c) of subsection (4) of
16 section 63.142, Florida Statutes, are amended to read:

17 63.142 Hearing; judgment of adoption.--

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

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

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 exercise his or her parental rights. A motion under this
2 paragraph must be filed with the court that entered the
3 original judgment. The motion must be filed within a
4 reasonable time, but not later than 1 year ~~2 years~~ after the
5 date the judgment terminating parental rights was entered.

6 (c) At the preliminary hearing, the court, upon the
7 motion of any party or its own motion, may order scientific
8 testing to determine the paternity of the minor if the person
9 seeking to set aside the judgment is alleging to be the
10 child's father and that fact has not previously been
11 determined by legitimacy or scientific testing. The court may
12 not order such testing, nor are the results of any such test
13 admissible, after the time period specified by s. 63.182.The
14 court may order supervised visitation with a person for whom
15 scientific testing for paternity has been ordered. Such
16 visitation shall be conditioned upon the filing of those test
17 results with the court and such results establishing that
18 person's paternity of the minor.

19 Section 6. Subsection (7) of section 63.162, Florida
20 Statutes, is amended to read:

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

23 (7) The court may, upon petition of an adult adoptee,
24 for good cause shown, appoint an intermediary or a licensed
25 child-placing agency to contact a birth parent who has not
26 registered with the adoption reunion registry pursuant to s.
27 63.165 and advise them of the availability of same.

28 Section 7. Section 63.165, Florida Statutes, is
29 amended to read:

30 63.165 State registry of adoption reunion information;
31 duty to inform and explain.--

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

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

16 (2)~~(1)~~ Anyone seeking to enter, change, or use
17 information in the registry, or any agent of such person,
18 shall present verification of his or her identity and, if
19 applicable, his or her authority. A person who enters
20 information in the registry shall be required to indicate
21 clearly the persons to whom he or she is consenting to release
22 this information, which persons shall be limited to the
23 adoptee and the birth mother, father whose consent was
24 required under s. 63.062, adoptive mother, adoptive father,
25 birth siblings, and maternal and paternal birth grandparents
26 of the adoptee. Except as provided in this section,
27 information in the registry is confidential and exempt from s.
28 119.07(1). Consent to the release of this information may be
29 made in the case of a minor adoptee by his or her adoptive
30 parents or by the court after a showing of good cause. At any
31 time, any person may withdraw, limit, or otherwise restrict

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 consent to release information by notifying the department in
2 writing.

3 (3)~~(2)~~ The department may charge a reasonable fee to
4 any person seeking to enter, change, or use information in the
5 registry. The department shall deposit such fees in a trust
6 fund to be used by the department only for the efficient
7 administration of this section. The department and agencies
8 shall make counseling available for a fee to all persons
9 seeking to use the registry, and the department shall inform
10 all affected persons of the availability of such counseling.

11 (4)~~(3)~~ The adoption entity must inform the parents
12 before parental rights are terminated, and the adoptive
13 parents before placement, in writing, of the existence and
14 purpose of the registry established under this section, but
15 failure to do so does not affect the validity of any
16 proceeding under this chapter.

17 Section 8. Section 63.063, Florida Statutes, is
18 created to read:

19 63.063 Paternity registry.--

20 (1) The Office of Vital Statistics of the Department
21 of Health shall establish and maintain a paternity registry,
22 and shall include in the paternity registry all information
23 obtained pursuant to compliance with s. 63.062(1)(d)1.

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

26 1. The minor was conceived or born while he was
27 married to the mother;

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

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

31 4. The minor has been established to be his child by

1 scientific tests that are generally acceptable within the
2 scientific community to show a probability of paternity.

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

5 (c) A man registering with the paternity registry
6 shall provide the paternity registry with the following
7 information in writing:

8 1. The name and the last known address of the mother
9 of the minor.

10 2. The name of the minor, and the location and date of
11 birth of the minor, if known, or the probable month and year
12 of the expected birth of the minor.

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

15 4. A statement in which the man claims to be the
16 father of the named minor.

17
18 A man who registers with the paternity registry shall promptly
19 notify the Department of Health in writing of any change in
20 the required information. A person who knowingly provides
21 false information to the paternity registry commits a
22 misdemeanor of the second degree and is subject to the
23 provisions of s. 63.212(2).

24 (d) Except as provided in paragraph (a), a man who
25 claims to be the father of a minor shall register with the
26 paternity registry. Registration may be accepted by the
27 Department of Health before the birth of the child, but may
28 not be accepted by the Department of Health after the 30th day
29 after the date of birth of the minor. A man who is required
30 to consent pursuant to s. 63.062 and who has registered with
31 the paternity registry is entitled to receive notice of the

1 petition and hearing to terminate parental rights pending
2 adoption, as required by s. 63.088.

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

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

8 (e) Except as provided in s. 63.062(1)(b)-(f), and
9 provided that any diligent search required by s. 63.088 has
10 been completed, any man who fails to register with the
11 paternity registry by the 30th day after the date of birth of
12 the minor may not assert an interest in the minor except for
13 an action pursuant to s. 63.089(7).

14 (f) Upon request, the Department of Health shall
15 furnish a certificate attesting to the results of a search of
16 the paternity registry to:

- 17 1. A court;
18 2. The birth mother; or
19 3. An adoption entity.

20 (g) If a court determines that a registrant is not the
21 father of the minor, the court shall order the Department of
22 Health to remove the registrant's name from the paternity
23 registry.

24 (h)1. The Department of Health may not charge a fee
25 for the registration in the paternity registry.

26 2. The Department of Health may charge a reasonable
27 fee for processing a search of the paternity registry pursuant
28 to paragraph (f). The department shall deposit such fees in a
29 trust fund to be used by the department only for the efficient
30 administration of this section.

31 (i) Information maintained by the paternity registry

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 is admissible in a proceeding in a court or administrative
2 tribunal of this state for any purpose.

3 (j) The Department of Health shall:

4 1. Produce and distribute a pamphlet or publication
5 informing the public about the paternity registry, including
6 the procedures, the consequences, and the address of the
7 paternity registry. Such pamphlet or publication shall be
8 made available for distribution at all offices of the
9 Department of Revenue and the Department of Health. The
10 Department of Health shall also provide such pamphlets or
11 publications to hospitals, libraries, medical clinics,
12 schools, universities, and county, state, and federal jails
13 and prisons, and other providers of child-related services,
14 upon request.

15 2. Provide information to the public at large through
16 general public service announcements, or in other ways deliver
17 information to the public about the paternity registry.

18 (2) RULES.--The Department of Health has authority to
19 adopt rules to implement this section.

20 Section 9. Section 63.182, Florida Statutes, is
21 amended to read:

22 63.182 Statute of repose.--Notwithstanding s. 95.031
23 or s. 95.11 or any other statute,†

24 ~~(1)~~ an action or proceeding of any kind to vacate, set
25 aside, or otherwise nullify a judgment of adoption or an
26 underlying judgment terminating parental rights on any ground,
27 ~~including duress but excluding fraud,~~ shall in no event be
28 filed more than 1 year after entry of the judgment terminating
29 parental rights.

30 ~~(2) An action or proceeding of any kind to vacate, set~~
31 ~~aside, or otherwise nullify a judgment of adoption or an~~

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 ~~underlying judgment terminating parental rights on grounds of~~
2 ~~fraud shall in no event be filed more than 2 years after entry~~
3 ~~of the judgment terminating parental rights.~~

4 Section 10. Any petition for adoption filed before the
5 effective date of this act shall be governed by the law in
6 effect at the time the petition was filed.

7 Section 11. Effective July 1, 2002, section 409.406,
8 Florida Statutes, is created to read:

9 409.406 Interstate Compact on Adoption and Medical
10 Assistance.--The Interstate Compact on Adoption and Medical
11 Assistance is enacted into law and entered into with all other
12 jurisdictions legally joining therein in form substantially as
13 follows:

14 INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

15 ARTICLE I. Findings

16 The Legislature finds that:

17 (a) Special measures are required to find adoptive
18 families for children for whom state assistance is desirable
19 pursuant to s. 409.166 and to ensure the protection of the
20 interest of the children affected during the entire assistance
21 period when the adoptive parents move to other states or are
22 residents of another state.

23 (b) The providers of medical and other necessary
24 services for children, with state assistance, encounter
25 special difficulties when the provision of services takes
26 place in other states.

27 ARTICLE II. Purposes

28 The purposes of the act are to:

29 (a) Authorize the Department of Children and Family
30 Services to enter into interstate agreements with agencies of
31 other states to protect children for whom adoption assistance

1 is provided by the Department of Children and Family Services.

2 (b) Provide procedures for interstate children's
3 adoption assistance payments, including medical payments.

4 ARTICLE III. Definitions

5 As used in this compact, the term:

6 (a) "Agency" means the Agency for Health Care
7 Administration.

8 (b) "Department" means the Florida Department of
9 Children and Family Services.

10 (c) "State" means a state of the United States, the
11 District of Columbia, the Commonwealth of Puerto Rico, the
12 United States Virgin Islands, Guam, the Commonwealth of the
13 Northern Mariana Islands, or a territory or possession of or
14 administered by the United States.

15 (d) "Adoption assistance state" means the state that
16 is signatory to an adoption assistance agreement in a
17 particular case.

18 (e) "Residence state" means the state where the child
19 resides.

20 (f) "Medical assistance" means the medical assistance
21 program authorized by Title XIX of the Social Security Act.

22 ARTICLE IV. Compacts Authorized

23 The Department of Children and Family Services, by and through
24 its secretary, may participate in the development of and
25 negotiate and enter into interstate compacts on behalf of this
26 state with other states to implement the purposes of this act.
27 Such a compact has the force and effect of law.

28 ARTICLE V. Contents of Compacts

29 A compact entered into under this act must have the following
30 content:

31 (a) A provision making it available for joinder by all

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 states;

2 (b) A provision for withdrawal from the compact upon
3 written notice to the parties, but with a period of 1 year
4 between the date of the notice and the effective date of the
5 withdrawal;

6 (c) A requirement that the protections afforded under
7 the compact continue in force for the duration of the adoption
8 assistance and are applicable to all children and their
9 adoptive parents who, on the effective date of the withdrawal,
10 are receiving adoption assistance from a party state other
11 than the one in which they are residents and have their
12 principal place of abode;

13 (d) A requirement that each instance of adoption
14 assistance to which the compact applies be covered by an
15 adoption assistance agreement in writing between the adoptive
16 parents and the state child welfare agency of the state which
17 undertakes to provide the adoption assistance, and further,
18 that any such agreement be expressly for the benefit of the
19 adopted child and enforceable by the adoptive parents and the
20 state agency providing the adoption assistance; and

21 (e) Such other provisions as are appropriate to the
22 proper administration of the compact.

23 ARTICLE VI. Optional Contents of Compacts
24 A compact entered into under this section may contain
25 provisions in addition to those required pursuant to Article
26 V, as follows:

27 (a) Provisions establishing procedures and entitlement
28 to medical and other necessary social services for the child
29 in accordance with applicable laws, even though the child and
30 the adoptive parents are in a state other than the one
31 responsible for or providing the services or the funds to

1 defray part or all of the costs thereof; and

2 (b) Such other provisions as are appropriate or
3 incidental to the proper administration of the compact.

4 ARTICLE VII. Medical Assistance

5 (a) A child with special needs who is a resident of
6 this state and who is the subject of an adoption assistance
7 agreement with another state is entitled to receive a medical
8 assistance identification from this state upon the filing with
9 the agency of a certified copy of the adoption assistance
10 agreement obtained from the adoption assistance state.

11 Pursuant to rules of the agency, the adoptive parents shall at
12 least annually show that the agreement is still in force or
13 has been renewed.

14 (b) The terms of the compact entered into by the
15 department apply to children who are the subject of federal
16 adoption assistance agreements. The state will provide the
17 benefits under this section to children who are the subject of
18 a state adoption assistance agreement, pursuant to the
19 determination by the department and the agency that the
20 adoption assistance state is a party to the compact and has
21 reciprocity in the provision of medical assistance to such
22 children.

23 (c) The agency shall consider the holder of a medical
24 assistance identification pursuant to this section as any
25 other holder of a medical assistance identification under the
26 laws of this state and shall process and make payment on
27 claims on behalf of such holder in the same manner and under
28 the same conditions and procedures established for other
29 recipients of medical assistance.

30 (d) The provisions of this article apply only to
31 medical assistance for children under adoption assistance

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 agreements from states that have entered into a compact with
2 this state under which the other state provided medical
3 assistance to children with special needs under adoption
4 assistance agreements made by this state. All other children
5 entitled to medical assistance pursuant to an adoption
6 assistance agreement entered into by this state are eligible
7 to receive such assistance under the laws and procedures
8 applicable thereto.

9 (e) The department shall adopt administrative rules
10 necessary for administering this section.

11 ARTICLE VIII. Federal Participation

12 Consistent with federal law, the department and the agency, in
13 administering the provisions of this act and any compact
14 pursuant hereto, must include in any state plan made pursuant
15 to the Adoption Assistance and Child Welfare Act of 1980 (Pub.
16 L. No. 96-272), Titles IV(E) and XIX of the Social Security
17 Act, and any other applicable federal laws, the provision of
18 adoption assistance and medical assistance for which the
19 Federal Government pays some or all of the cost. The
20 department and the agency shall apply for and administer all
21 relevant federal aid in accordance with law.

22 Section 12. Effective July 1, 2002, section 409.407,
23 Florida Statutes, is created to read:

24 409.407 Interstate agreements between the Department
25 of Children and Family Services and agencies of other
26 states.--The Department of Children and Family Services, which
27 is authorized to enter into interstate agreements with
28 agencies of other states for the implementation of the
29 purposes of the Interstate Compact on Adoption and Medical
30 Assistance pursuant to s. 409.406, shall not expand the
31 financial commitment of Florida beyond the financial

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 obligation of the adoption assistance agreements and Medicaid.

2 Section 13. Except as otherwise provided herein, this
3 act shall take effect October 1, 2002.

4

5

6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 remove: the entire title

9

10 and insert:

11

A bill to be entitled

12

An act relating to adoption; amending ss.

13

63.062, 63.085, 63.089, 63.142, and 63.182,

14

F.S.; reducing the time period within which an

15

action must be filed to nullify an adoption or

16

a termination of parental rights on grounds of

17

fraud or providing false information; providing

18

a time limitation for the use of scientific

19

testing to show a probability of paternity;

20

requiring notice to and written consent from a

21

registrant in the paternity registry for a

22

termination of parental rights pending

23

adoption; amending s. 63.088, F.S.; providing

24

court inquiry and diligent search requirements

25

regarding a registrant in the paternity

26

registry to terminate parental rights pending

27

adoption; amending ss. 63.162 and 63.165, F.S.;

28

renaming the state adoption registry; creating

29

s. 63.063, F.S.; requiring the Office of Vital

30

Statistics of the Department of Health to

31

maintain a paternity registry; providing duties

781-123AX-08

Bill No. CS/HB 775, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 of registrants and the department; providing a
2 penalty; providing use and admissibility of
3 registry information; providing for a fee;
4 providing rulemaking authority; providing
5 applicability of the act; creating s. 409.406,
6 F.S.; enacting the Interstate Compact on
7 Adoption and Medical Assistance; providing
8 authority for the Department of Children and
9 Family Services to enter into interstate
10 agreements with other participating states for
11 medical and other necessary services for
12 special needs children; establishing procedures
13 for interstate delivery of adoption assistance
14 and related services and benefits; providing
15 for the adoption of administrative rules;
16 creating s. 409.407, F.S.; prohibiting
17 expansion of Florida's financial commitment;
18 providing effective dates.

19
20
21
22
23
24
25
26
27
28
29
30
31