

By Senators Lynn and Campbell

7-1618A-03

1 A bill to be entitled
2 An act relating to adoption; amending s.
3 63.022, F.S.; providing legislative findings
4 and intent with respect to the rights and
5 responsibilities of adoptive children,
6 biological parents, and adoptive parents;
7 providing that certain requirements do not
8 apply to an adoption involving a relative or
9 stepchild; providing legislative intent
10 concerning cooperation between the Department
11 of Children and Family Services and private
12 adoption entities; amending s. 63.032, F.S.;
13 revising definitions; defining the term
14 "unmarried biological father"; amending s.
15 63.039, F.S.; providing for an award of certain
16 fees and costs in the event of fraud or duress
17 at the discretion of the court; requiring that
18 certain court findings of sanctionable conduct
19 be forwarded to the Office of the Attorney
20 General; amending s. 63.042, F.S.; revising
21 provisions specifying who may adopt; amending
22 s. 63.0423, F.S.; revising references to
23 newborn infants; authorizing a child-placing
24 agency to remove an abandoned infant from a
25 placement under certain circumstances; revising
26 requirements for conducting a diligent search
27 to identify a parent of an abandoned infant;
28 revising certain requirements for the court;
29 revising time periods for providing notice of
30 certain actions; revising the period within
31 which a judgment of termination of parental

1 rights may be voided; amending s. 63.0425,
2 F.S.; revising requirements for notifying a
3 grandparent with whom the child has resided of
4 a hearing on a petition for termination of
5 parental rights; deleting a requirement that
6 the court give first priority for adoption to
7 the grandparent under certain conditions;
8 amending s. 63.0427, F.S.; revising provisions
9 governing a minor's right to communicate with
10 siblings and other relatives; providing for
11 postadoption communication or contact with
12 parents whose parental rights have been
13 terminated; amending s. 63.043, F.S.; deleting
14 provisions prohibiting certain screening or
15 testing for purposes of employment or admission
16 into educational institutions; amending s.
17 63.052, F.S.; revising provisions specifying
18 the entity that may be the guardian of a minor
19 placed for an adoption; revising the
20 responsibilities and authority of the guardian;
21 creating s. 63.053, F.S.; providing legislative
22 findings with respect to the rights and
23 responsibilities of an unmarried biological
24 father; creating s. 63.054, F.S.; providing
25 requirements for the unmarried biological
26 father to establish parental rights; creating
27 the Florida Putative Father Registry within the
28 Office of Vital Statistics of the Department of
29 Health; providing requirements for registering
30 with the Florida Putative Father Registry;
31 providing requirements for searching the

1 registry; directing the Department of Health to
2 provide for an application and inform the
3 public of the Florida Putative Father Registry;
4 amending s. 63.062, F.S.; revising provisions
5 specifying the persons from whom a consent for
6 adoption is required; providing conditions
7 under which the consent for adoption of an
8 unmarried biological father must be obtained;
9 authorizing the execution of an affidavit of
10 nonpaternity prior to the birth of the child;
11 deleting requirements for a form for the
12 affidavit of nonpaternity; revising the
13 conditions under which a petition to adopt an
14 adult may be granted; revising venue
15 requirements for terminating parental rights;
16 creating s. 63.063, F.S.; providing for the
17 responsibilities of each party pertaining to
18 fraudulent actions; providing requirements for
19 a biological father to contest a termination of
20 parental rights; creating s. 63.064, F.S.;
21 authorizing the court to waive the requirement
22 that consent for adoption be obtained from
23 certain persons; amending s. 63.082, F.S.;
24 revising the requirements for executing a
25 consent for adoption and obtaining certain
26 information concerning the child and birth
27 parents; providing for executing an affidavit
28 of nonpaternity prior to the birth of the
29 child; authorizing an adoption entity to
30 intervene as a party in interest under certain
31 circumstances; providing for placement of a

1 minor when the minor is in the custody of the
2 Department of Children and Family Services;
3 revising requirements for withdrawing a consent
4 for adoption; amending s. 63.085, F.S.;
5 revising the requirements for required
6 disclosures by an adoption entity; amending s.
7 63.087, F.S.; revising provisions governing the
8 proceedings for terminating parental rights
9 pending adoption; revising the venue
10 requirements for filing a petition to terminate
11 parental rights; revising requirements for a
12 petition for terminating parental rights
13 pending adoption; amending s. 63.088, F.S.;
14 providing for limited notice requirements for
15 an unmarried biological father; revising the
16 period within which an inquiry and diligent
17 search must be initiated; revising requirements
18 for notice concerning the termination of
19 parental rights; revising the individuals for
20 whom information regarding identity is
21 required; revising the inquiries required for
22 the diligent search; revising requirements for
23 constructive service; amending s. 63.089, F.S.;
24 revising hearing requirements for terminating
25 parental rights; revising the conditions under
26 which the court may enter a judgment
27 terminating parental rights; revising the
28 conditions for making a finding of abandonment;
29 revising requirements for issuing and voiding a
30 judgment terminating parental rights; amending
31 s. 63.092, F.S.; revising requirements for

1 placing a minor by an adoption entity; revising
2 requirements for a preliminary home study;
3 amending s. 63.097, F.S.; revising the fees,
4 costs, and expenses that may be assessed by an
5 adoption entity; revising the total of the
6 fees, costs, and expenses for which prior court
7 approval is required; prohibiting certain fees,
8 costs, and expenses; amending s. 63.102, F.S.;
9 revising the period within which a petition for
10 adoption may be filed; providing for exceptions
11 for adoptions of adults and adoptions by
12 stepparents and relatives; revising
13 requirements pertaining to prior approval of
14 fees and costs; providing for the clerk of the
15 court to charge one filing fee for certain
16 adoption-related actions; amending s. 63.112,
17 F.S.; revising requirements for the petition
18 documents for an adoption; amending s. 63.122,
19 F.S.; providing requirements for the notice of
20 the hearing on the petition for adoption;
21 amending s. 63.125, F.S.; revising the period
22 within which the home investigation report must
23 be filed; amending s. 63.132, F.S.; revising
24 the period within which an affidavit of
25 expenses and receipts must be filed; revising
26 requirements for the affidavit of expenses and
27 receipts; providing an exception for the
28 adoption of a relative or an adult; amending s.
29 63.135, F.S.; requiring that certain
30 information be provided to the court for all
31 adoption proceedings; amending s. 63.142, F.S.;

1 allowing persons to appear before the court
2 telephonically; revising conditions under which
3 a judgment terminating parental rights is
4 voidable; revising requirements pertaining to
5 the court's consideration of setting aside a
6 judgment terminating parental rights; amending
7 s. 63.152, F.S.; revising the entities
8 responsible for preparing a statement of the
9 adoption for the state registrar of vital
10 statistics; requiring the clerk of the court to
11 transmit the statement of the adoption to the
12 state registrar; amending s. 63.162, F.S.;
13 revising certain notice requirements concerning
14 the disclosure of information pertaining to an
15 adoption; amending s. 63.167, F.S.; authorizing
16 the department to contract for the operation of
17 a state adoption information center; amending
18 s. 63.182, F.S.; revising the statute of repose
19 to conform to changes made by the act;
20 repealing s. 63.185, F.S., relating to the
21 residency requirement for adoptions; amending
22 s. 63.207, F.S.; providing for the court's
23 jurisdiction with respect to out-of-state
24 placements; amending s. 63.212, F.S.; requiring
25 an out-of-state adoption be in compliance with
26 the Interstate Compact for the Placement of
27 Children, when applicable; deleting certain
28 provisions concerning preplanned adoption
29 agreements; revising the acts that are unlawful
30 pertaining to adoption; creating s. 63.213,
31 F.S.; providing requirements for a preplanned

1 adoption arrangement; defining terms; amending
2 s. 63.219, F.S.; revising conditions under
3 which the court may sanction an adoption
4 entity; amending s. 63.235, F.S.; providing for
5 application of the act; providing an effective
6 date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 63.022, Florida Statutes, is
11 amended to read:

12 63.022 Legislative intent.--

13 (1) The Legislature finds that:

14 (a) The state has a compelling interest in providing
15 stable and permanent homes for adoptive children in a prompt
16 manner, in preventing the disruption of adoptive placements,
17 and in holding parents accountable for meeting the needs of
18 children;

19 (b) An unmarried mother, faced with the responsibility
20 of making crucial decisions about the future of a newborn
21 child is entitled to privacy, has the right to make timely and
22 appropriate decisions regarding her future and the future of
23 the child, and is entitled to assurance regarding an adoptive
24 placement;

25 (c) Adoptive children have the right to permanence and
26 stability in adoptive placements;

27 (d) Adoptive parents have a constitutional privacy
28 interest in retaining custody of a legally adopted child; and

29 (e) An unmarried biological father has an inchoate
30 interest that acquires constitutional protection only when he
31 demonstrates a timely and full commitment to the

1 responsibilities of parenthood, both during the pregnancy and
2 after the child's birth. The state has a compelling interest
3 in requiring an unmarried biological father to demonstrate
4 that commitment by providing appropriate medical care and
5 financial support and by establishing legal paternity rights
6 in accordance with the requirements of this chapter.

7 (2) It is the intent of the Legislature that in every
8 adoption the best interest of the child should govern and be
9 of foremost concern in the court's determination. The court
10 shall make a specific finding as to the best interest of the
11 child in accordance with the provisions of this chapter.

12 (3)(1) It is the intent of the Legislature to protect
13 and promote the well-being of persons being adopted and their
14 birth and adoptive parents and to provide to all children who
15 can benefit by it a permanent family life, and, whenever
16 appropriate possible, to maintain sibling groups.

17 (4)(2) The basic safeguards intended to be provided by
18 this chapter are that:

19 (a) The minor is legally free for adoption and that
20 all adoptions are handled in accordance with the requirements
21 of law.

22 (b) The required persons consent to the adoption or
23 the parent-child relationship is terminated by judgment of the
24 court.

25 (c) The required social studies are completed and the
26 court considers the reports of these studies prior to judgment
27 on adoption petitions.

28 (d) All placements of minors for adoption are reported
29 to the Department of Children and Family Services, except
30 relative, adult, and stepparent adoptions.

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1 (e) A sufficient period of time elapses during which
2 the minor has lived within the proposed adoptive home under
3 the guidance of an adoption entity, except stepparent
4 adoptions or adoptions of a relative ~~the department, a~~
5 ~~child-caring agency registered under s. 409.176, or a licensed~~
6 ~~child-placing agency.~~

7 (f) All expenditures by adoption entities or adoptive
8 parents relative to the adoption of ~~placing, and persons~~
9 ~~independently adopting,~~ a minor are reported to the court and
10 become a permanent record in the file of the adoption
11 proceedings, including, but not limited to, all legal fees and
12 costs, all payments to or on behalf of a birth parent, and all
13 payments to or on behalf of the minor.

14 (g) Social and medical information concerning the
15 minor and the parents is furnished by the parent when
16 available and filed with the court before a final hearing on a
17 petition to terminate parental rights pending adoption, unless
18 the petitioner is a stepparent or a relative.

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

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

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

27 (k) The birth parent, the prospective adoptive parent,
28 and the minor receive, at a minimum, the safeguards, guidance,
29 counseling, and supervision required in this chapter.

30 (l) In all matters coming before the court under this
31 chapter, the court shall enter such orders as it deems

1 necessary and suitable to promote and protect the best
2 interests of the person to be adopted.

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

9 (5) It is the intent of the Legislature to provide for
10 cooperation between private adoption entities and the
11 Department of Children and Family Services in matters relating
12 to permanent placement options for children in the care of the
13 department whose birth parents wish to participate in a
14 private adoption plan with a qualified family.

15 Section 2. Section 63.032, Florida Statutes, is
16 amended to read:

17 63.032 Definitions.--As used in this chapter, the
18 term:

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

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

7 (3) "Adoption entity" means the department, an agency,
8 a child-caring agency registered under s. 409.176, ~~or an~~
9 intermediary, or a child-placing agency licensed in another
10 state which is qualified by the department to place children
11 in the State of Florida.

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

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

16 (6) "Child" means a son or daughter, whether by birth
17 or adoption.

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

21 (8) "Department" means the Department of Children and
22 Family Services.

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

31

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

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

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

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

10 (14) "Relative" means a person related by blood to the
11 person being adopted within the third degree of consanguinity
12 ~~has the same meaning ascribed in s. 39.01.~~

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

18 (16) "Placement" means the process of a parent or
19 legal guardian surrendering a child for adoption and the
20 prospective adoptive parent receiving and adopting the child
21 and all actions by any adoption entity participating in
22 placing the child.

23 (17)~~(16)~~ "Primarily lives and works outside Florida"
24 means ~~anyone who does not meet the definition of "primary~~
25 ~~residence and place of employment in Florida."~~

26 ~~(17)~~ "Primary residence and place of employment in
27 Florida" ~~means~~ a person who lives and works outside in this
28 state at least 6 months of the year ~~and intends to do so for~~
29 ~~the foreseeable future~~ or military personnel who designate
30 Florida as their place of residence in accordance with the
31 Soldiers' and Sailors' Civil Relief Act of 1940 or employees

1 of the United States Department of State living in a foreign
2 country who designate a state other than Florida as their
3 place of residence.

4 (18) "Suitability of the intended placement" includes
5 the fitness of the intended placement, with primary
6 consideration being given to the best interests ~~welfare~~ of the
7 child; ~~the fitness and capabilities of the adoptive parent or~~
8 ~~parents to function as parent or parents for a particular~~
9 ~~child; any familial relationship between the child and the~~
10 ~~prospective placement; and the compatibility of the child with~~
11 ~~the home in which the child is intended to be placed.~~

12 (19) "Unmarried biological father" means the child's
13 biological father who is not married to the child's mother at
14 the time of conception or birth of the child, and who has not
15 been declared by a court of competent jurisdiction to be the
16 legal father of the child.

17 Section 3. Section 63.039, Florida Statutes, is
18 amended to read:

19 63.039 Duty of adoption entity to prospective adoptive
20 parents; sanctions.--

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

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

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1 (b) Provide written ~~initial and postbirth~~ disclosure
2 to the parent at the time and in the manner required under s.
3 63.085.

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

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

11 (e) Include in the petition to terminate parental
12 rights pending adoption all information required under s.
13 63.087 ~~s. 63.087(6)(e) and (f)~~.

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

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

21 (h) Serve a ~~the~~ petition and notice of hearing to
22 terminate parental rights pending adoption at the time and in
23 the manner prescribed by law ~~required by s. 63.088~~.

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

29 (2) If a court finds that a consent to adoption or an
30 affidavit of nonpaternity taken under this chapter was
31 obtained by fraud or ~~under~~ duress attributable to the adoption

1 entity, the court may ~~must~~ award all sums paid by the
2 prospective adoptive parents or on their behalf in
3 anticipation of or in connection with the adoption. The court
4 may also award reasonable attorney's fees and costs incurred
5 by the prospective adoptive parents in connection with the
6 adoption and any litigation related to placement or adoption
7 of a minor. The court may ~~must~~ award reasonable attorney's
8 fees and costs, if any, incurred by the person whose consent
9 or affidavit was obtained by fraud or under duress. Any award
10 under this subsection to the prospective adoptive parents or
11 to the person whose consent or affidavit was obtained by fraud
12 or ~~under~~ duress must be paid directly to them by the adoption
13 entity or by any applicable insurance carrier on behalf of the
14 adoption entity if the court determines, after an evidentiary
15 hearing held subsequent to the entry of a final order in the
16 underlying termination of parental rights or adoption action,
17 that the actions or failures of the adoption entity directly
18 contributed to the finding of fraud or duress.

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

29 (4) Within 30 days after the entry of an order of the
30 court finding sanctionable conduct on the part of an adoption
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1 ~~entity the date that the order was issued~~, the clerk of the
2 court must forward to:

3 (a) The Florida Bar any order that imposes sanctions
4 under this section against an attorney acting as an adoption
5 entity.

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

10 (c) The entity under s. 409.176 that certifies
11 child-caring agencies any order that imposes sanctions under
12 this section against a child-caring agency registered under s.
13 409.176.

14 (d) The Office of Attorney General any order that
15 imposes sanctions under this section against the department.

16 Section 4. Section 63.042, Florida Statutes, is
17 amended to read:

18 63.042 Who may be adopted; who may adopt.--

19 (1) Any person, a minor or an adult, may be adopted.

20 (2) The following persons may adopt:

21 (a) A husband and wife jointly;

22 (b) An unmarried adult, ~~including the birth parent of~~
23 ~~the person to be adopted;~~ or

24 ~~(c) The unmarried minor birth parent of the person to~~
25 ~~be adopted;~~ or

26 (c)(d) A married person without the other spouse
27 joining as a petitioner, if the person to be adopted is not
28 his or her spouse, and if:

29 1. The other spouse is a parent of the person to be
30 adopted and consents to the adoption; or

31

1 2. The failure of the other spouse to join in the
2 petition or to consent to the adoption is excused by the court
3 for good cause shown, or in the best interest of the child for
4 ~~reason of prolonged unexplained absence, unavailability,~~
5 ~~incapacity, or circumstances constituting an unreasonable~~
6 ~~withholding of consent.~~

7 (3) No person eligible to adopt under this statute may
8 adopt if that person is a homosexual.

9 (4) No person eligible under this section shall be
10 prohibited from adopting solely because such person possesses
11 a physical disability or handicap, unless it is determined by
12 the court or adoption entity ~~department or the licensed~~
13 ~~child-placing agency~~ that such disability or handicap renders
14 such person incapable of serving as an effective parent.

15 Section 5. Section 63.0423, Florida Statutes, is
16 amended to read:

17 63.0423 Procedures with respect to abandoned infants
18 ~~newborns~~.--

19 (1) A licensed child-placing agency that takes
20 physical custody of an ~~a newborn~~ infant abandoned left at a
21 hospital, emergency medical services station, or fire station
22 pursuant to s. 383.50, shall assume responsibility for all
23 medical costs and all other costs associated with the
24 emergency services and care of the abandoned newborn infant
25 from the time the licensed child-placing agency takes physical
26 custody of the abandoned newborn infant.

27 (2) The licensed child-placing agency shall
28 immediately seek an order from the circuit court for emergency
29 custody of the abandoned newborn infant. The emergency custody
30 order shall remain in effect until the court orders
31 preliminary approval of placement of the abandoned newborn

1 infant in the prospective home, at which time the prospective
2 adoptive parents become guardians pending termination of
3 parental rights and finalization of adoption or until the
4 court orders otherwise. The guardianship of the prospective
5 adoptive parents shall remain subject to the right of the
6 licensed child-placing agency to remove the abandoned infant
7 from the placement during the pendency of the proceedings if
8 such removal is deemed by the licensed child-placing agency to
9 be in the best interests of the child.The licensed
10 child-placing agency may immediately seek to ~~temporarily~~ place
11 the abandoned newborn infant in a prospective adoptive home ~~as~~
12 ~~soon as possible.~~

13 (3) The licensed child-placing agency that takes
14 physical custody of the abandoned newborn infant shall, within
15 24 hours thereafter,~~immediately~~ request assistance from law
16 enforcement officials to investigate and determine, through
17 the Missing Children Information Clearinghouse, the National
18 Center for Missing and Exploited Children, and any other
19 national and state resources, whether or not the abandoned
20 ~~newborn~~ infant is a missing child.

21 (4) Within 7 days after accepting physical custody of
22 the abandoned newborn infant, the licensed child-placing
23 agency shall initiate a diligent search to notify and to
24 obtain consent from a parent whose identity is known, but
25 whose location is unknown.~~or location is unknown, other than~~
26 ~~the parent who has left a newborn infant at a hospital,~~
27 ~~emergency medical services station, or fire station in~~
28 ~~accordance with s. 383.50.~~The diligent search must include,
29 at a minimum, inquiries as provided for in s. 63.088. ~~of all~~
30 ~~known relatives of the parent, inquiries of all offices or~~
31 ~~program areas of the department likely to have information~~

1 ~~about the parent, inquiries of other state and federal~~
2 ~~agencies likely to have information about the parent,~~
3 ~~inquiries of appropriate utility and postal providers, and~~
4 ~~inquiries of appropriate law enforcement agencies.~~

5 Constructive notice must also be provided pursuant to chapter
6 49 in the county where the abandoned newborn infant was left
7 ~~and in the county where the petition to terminate parental~~
8 ~~rights will be filed. The constructive notice must include at~~
9 ~~a minimum, available identifying information, and information~~
10 ~~on whom a parent must contact in order to assert a claim of~~
11 ~~parental rights of the newborn infant and how to assert that~~
12 ~~claim. If a parent is identified and located, notice of the~~
13 ~~adjudicatory hearing on the petition for termination of~~
14 ~~parental rights shall be provided. If a parent cannot be~~
15 ~~identified or located subsequent to the diligent search and~~
16 ~~constructive notice, the licensed child-placing agency shall~~
17 ~~file an affidavit of diligent search at the same time that the~~
18 ~~petition to terminate parental rights is filed.~~

19 (5) A petition for termination of parental rights
20 under this section may not be filed until 30 days after the
21 date the abandoned newborn infant was left in accordance with
22 s. 383.50. A petition for termination of parental rights may
23 not be granted until consent to adoption or an affidavit of
24 nonpaternity has been executed by a parent of the abandoned
25 newborn infant as set forth in s. 63.062, a parent has failed
26 to reclaim or claim the abandoned newborn infant within the
27 specified time period specified in s. 383.50, or the consent
28 of a parent is otherwise waived by the court.

29 (6) A claim of parental rights of the abandoned
30 newborn infant must be made to the entity having ~~physical or~~
31 ~~legal custody of the~~ abandoned newborn infant or to the

1 circuit court before whom proceedings involving the abandoned
2 ~~newborn~~ infant are pending. A claim of parental rights of the
3 abandoned ~~newborn~~ infant may not be made after the judgment to
4 terminate parental rights is entered, except as otherwise
5 provided by subsection (9) ~~(10)~~.

6 (7) If a claim of parental rights of an abandoned ~~a~~
7 ~~newborn~~ infant is made before the judgment to terminate
8 parental rights is entered, the circuit court may ~~shall~~ hold
9 the action for termination of parental rights pending
10 subsequent adoption in abeyance for a period of time not to
11 exceed 60 days.

12 (a) The court may ~~shall~~ order scientific testing to
13 determine maternity or paternity at the expense of the parent
14 claiming parental rights ~~unless maternity or paternity has~~
15 ~~been previously established legally or by scientific testing.~~

16 (b) The court shall ~~may~~ appoint a guardian ad litem
17 for the abandoned ~~newborn~~ infant and order whatever
18 investigation, home evaluation, and psychological evaluation
19 are necessary to determine what is in the best interest of the
20 abandoned ~~newborn~~ infant.

21 (c) The court may not terminate parental rights solely
22 on the basis that the parent left the ~~a~~ ~~newborn~~ infant at a
23 hospital, emergency medical services station, or fire station
24 in accordance with s. 383.50.

25 (d) The court shall enter a judgment with written
26 findings of fact and conclusions of law.

27 (8) Within 7 business days ~~24 hours~~ after recording
28 ~~filing~~ the judgment, the clerk of the court shall mail a copy
29 of the judgment to the department, the petitioner, and the
30 persons whose consent were required, if known. The clerk shall
31 execute a certificate of each mailing.

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

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

24 (c) At the preliminary hearing the court, upon the
25 motion of any party or upon its own motion, may order
26 scientific testing to determine the paternity or maternity of
27 the minor if the person seeking to set aside the judgment is
28 alleging to be the child's birth parent but who ~~and that fact~~
29 has not previously been determined by legal proceedings or
30 scientific testing to be the parent. Upon the filing of test
31 results establishing that person's maternity or paternity of

1 the abandoned infant, the court may order ~~supervised~~
2 visitation as it deems appropriate and in the best interest of
3 the child ~~with a person for whom scientific testing for~~
4 ~~paternity or maternity has been ordered. Such visitation shall~~
5 ~~be conditioned upon the filing of test results with the court~~
6 ~~and those results establishing that person's paternity or~~
7 ~~maternity of the minor.~~

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

12 (10) Except to the extent expressly provided in this
13 section, proceedings initiated by a licensed child-placing
14 agency for the termination of parental rights and subsequent
15 adoption of a newborn left at a hospital, emergency medical
16 services station, or fire station in accordance with s. 383.50
17 shall be conducted pursuant to this chapter.

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

20 63.0425 Grandparent's right to adopt.--

21 (1) When a child ~~who~~ has lived with a grandparent for
22 at least 6 months within the 24-month period immediately
23 preceding the filing of a petition for termination of parental
24 rights pending adoption ~~is placed for adoption~~, the adoption
25 entity ~~handling the adoption~~ shall provide notice to ~~notify~~
26 that grandparent of the hearing on the petition for
27 termination of parental rights pending adoption ~~impending~~
28 ~~adoption before the petition for adoption is filed. If the~~
29 ~~grandparent petitions the court to adopt the child, the court~~
30 ~~shall give first priority for adoption to that grandparent.~~

31

1 Section 7. Section 63.0427, Florida Statutes, is
2 amended to read:

3 63.0427 Adopted minor's right to continued
4 communication or contact with siblings and other relatives.--

5 (1) A child whose parents have had their parental
6 rights terminated and whose custody has been awarded to the
7 department pursuant to s. 39.811, and who is the subject of a
8 petition for adoption under this chapter, shall have the right
9 to have the court consider the appropriateness of postadoption
10 communication or contact, including, but not limited to,
11 visits, written correspondence ~~letters and cards~~, or telephone
12 calls, with his or her siblings or, upon agreement of the
13 adoptive parents, the parents who have had their parental
14 rights terminated, or other specified biological relatives ~~who~~
15 ~~are not included in the petition for adoption.~~ The court
16 shall ~~determine if the best interests of the child support~~
17 ~~such continued communication or contact and shall~~ consider the
18 following in making such determination:

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

20 (b) Recommendations of the department, the foster
21 parents if other than the adoptive parents, and the guardian
22 ad litem.

23 (c) Statements of the prospective adoptive parents.

24 (d) Any other information deemed relevant and material
25 by the court.

26
27 If the court determines that the child's best interests will
28 be served by postadoption communication or contact ~~with any~~
29 ~~sibling or, upon agreement of the adoptive parents, other~~
30 ~~specified biological relatives~~, the court shall so order,
31 stating the nature and frequency for the communication or

1 contact. This order shall be made a part of the final adoption
2 order, but in no event shall the continuing validity of the
3 adoption be contingent upon such postadoption communication or
4 contact, nor shall the ability of the adoptive parents and
5 child to change residence within or outside the State of
6 Florida be impaired by such communication or contact.

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

20 Section 8. Section 63.043, Florida Statutes, is
21 amended to read:

22 63.043 Mandatory screening or testing for sickle-cell
23 trait prohibited.--No person, firm, corporation,
24 unincorporated association, state agency, unit of local
25 government, or any public or private entity shall require
26 screening or testing for the sickle-cell trait as a condition
27 ~~for employment, for admission into any state educational~~
28 ~~institution or state-chartered private educational~~
29 ~~institution, or for becoming eligible for adoption if~~
30 otherwise eligible for adoption under the laws of this state.

31

1 Section 9. Section 63.052, Florida Statutes, is
2 amended to read:

3 63.052 Guardians designated; proof of commitment.--

4 (1) For minors who have been placed for adoption with
5 and permanently committed to an adoption entity, other than an
6 intermediary, such adoption entity agency as defined in s.
7 ~~63.032 or a child-caring agency registered under s. 409.176,~~
8 ~~such agency shall be the guardian of the person of the minor~~
9 ~~and has the responsibility and authority to provide for the~~
10 ~~needs and welfare of the minor; for those who have been placed~~
11 ~~for adoption with and permanently committed to the department,~~
12 ~~the department shall be the guardian of the person of the~~
13 ~~minor.~~

14 (2) For minors who have been voluntarily surrendered
15 to an intermediary through an execution of a consent to
16 adoption, the intermediary shall be responsible for the minor
17 until the time a court orders preliminary approval of
18 placement of the minor in the prospective adoptive home, after
19 at which time the prospective adoptive parents shall become
20 guardians pending finalization of adoption, subject to the
21 intermediary's right and responsibility to remove the child
22 from the prospective adoptive home. If the removal is deemed
23 by the intermediary to be in the best interests of the child
24 prior to the court's entry of an order granting preliminary
25 approval of the placement, the intermediary shall have the
26 responsibility and authority to provide for the needs and
27 welfare of the minor.~~Until a court has terminated parental~~
28 ~~rights pending adoption and has ordered preliminary approval~~
29 ~~of placement of the minor in the adoptive home, the minor must~~
30 ~~be placed in the care of a relative as defined in s. 39.01, in~~
31 ~~foster care as defined in s. 39.01, or in the care of a~~

1 ~~prospective adoptive home.~~No minor shall be placed in a
2 prospective adoptive home until that home has received a
3 favorable preliminary home study ~~by a licensed child-placing~~
4 ~~agency, a licensed professional, or an agency,~~ as provided in
5 s. 63.092, within 1 year before such placement in the
6 prospective home. ~~Temporary placement in the prospective home~~
7 ~~with the prospective adoptive parents does not give rise to a~~
8 ~~presumption that the parental rights of the parents will~~
9 ~~subsequently be terminated. For minors who have been placed~~
10 ~~for adoption with or voluntarily surrendered to an agency, but~~
11 ~~have not been permanently committed to the agency, the agency~~
12 ~~shall have the responsibility and authority to provide for the~~
13 ~~needs and welfare for such minors. For those minors placed~~
14 ~~for adoption with or voluntarily surrendered to the~~
15 ~~department, but not permanently committed to the department,~~
16 ~~the department shall have the responsibility and authority to~~
17 ~~provide for the needs and welfare for such minors. The~~
18 ~~adoption entity may authorize all appropriate medical care for~~
19 ~~a minor who has been placed for adoption with or voluntarily~~
20 ~~surrendered to the adoption entity. The provisions of s.~~
21 627.6578 shall remain in effect notwithstanding the
22 guardianship provisions in this section.

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

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

8 (5) The recital in a the written consent, answer, or
9 recommendation filed by an adoption entity given by the
10 ~~department~~ that the minor ~~sought to be adopted~~ has been
11 permanently committed to the adoption entity or that the
12 adoption entity is duly licensed ~~department~~ shall be prima
13 facie proof of such commitment. A consent for adoption signed
14 by an adoption entity need not comply with s. 63.082. ~~The~~
15 ~~recital in the written consent given by a licensed~~
16 ~~child-placing agency or the declaration in an answer or~~
17 ~~recommendation filed by a licensed child-placing agency that~~
18 ~~the minor has been permanently committed and the child-placing~~
19 ~~agency is duly licensed by the department shall be prima facie~~
20 ~~proof of such commitment and of such license.~~

21 (6) Unless otherwise authorized by law or ordered by
22 the court, the department is not responsible for expenses
23 incurred by other adoption entities participating in placement
24 of a minor ~~for the purposes of adoption.~~

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

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

8 Section 10. Section 63.053, Florida Statutes, is
9 created to read:

10 63.053 Rights and responsibilities of an unmarried
11 biological father; legislative findings.--

12 (1) In enacting the provisions contained in this
13 chapter, the Legislature prescribes the conditions for
14 determining whether an unmarried biological father's actions
15 are sufficiently prompt and substantial so as to require
16 protection of a constitutional right. If an unmarried
17 biological father fails to take the actions that are available
18 to him to establish a relationship with his child, his
19 parental interest may be lost entirely, or greatly diminished,
20 by his failure to timely comply with the available legal steps
21 to substantiate a parental interest.

22 (2) The Legislature finds that the interest of the
23 state, the mother, the child, and the adoptive parents
24 described in this chapter outweigh the interest of an
25 unmarried biological father who does not take action in a
26 timely manner to establish and demonstrate a relationship with
27 his child in accordance with the requirements of this chapter.
28 An unmarried biological father has the primary responsibility
29 to protect his rights, and is presumed to know that his child
30 may be adopted without his consent unless he complies with the

31

1 provisions of this chapter and demonstrates a prompt and full
2 commitment to his parental responsibilities.

3 (3) The Legislature finds that an unmarried mother has
4 a right of privacy with regard to her pregnancy and the
5 adoption plan and therefore, has no legal obligation to
6 disclose the identity of an unmarried biological father prior
7 to or during an adoption proceeding and has no obligation to
8 volunteer information to the court which concerns the
9 unmarried biological father, as defined in s. 63.032(19).

10 Section 11. Section 63.054, Florida Statutes, is
11 created to read:

12 63.054 Actions required by an unmarried biological
13 father to establish parental rights; Florida Putative Father
14 Registry.--

15 (1) In order to preserve the right to notice and
16 consent to an adoption under this chapter, an unmarried
17 biological father must, as the "registrant," file a notarized
18 claim of paternity form with the Florida Putative Father
19 Registry maintained by the Office of Vital Statistics of the
20 Department of Health and shall include therein confirmation of
21 his willingness and intent to support the child for whom
22 paternity is claimed in accordance with state law. The claim
23 of paternity may be filed at any time prior to the child's
24 birth, but a claim of paternity may not be filed after the
25 date a petition is filed for termination of parental rights.

26 (2) By filing a claim of paternity form with the
27 Office of Vital Statistics, the registrant expressly consents
28 to submit to DNA testing upon the request of any party, the
29 registrant, or the adoption entity with respect to the child
30 referenced in the claim of paternity.

31

1 (3) The Office of Vital Statistics of the Department
2 of Health shall adopt by rule the appropriate claim of
3 paternity form in English, Spanish, and Creole in order to
4 facilitate the registration of an unmarried biological father
5 with the Florida Putative Father Registry, and shall, within
6 existing resources, make these forms available through local
7 offices of the Department of Health and the Department of
8 Children and Family Services, the Internet websites of those
9 agencies, and the offices of the clerks of the circuit court.
10 The claim of paternity form shall be signed by the unmarried
11 biological father and must include his name, address, date of
12 birth, and physical description. In addition, the registrant
13 shall provide, if known, the name, address, date of birth, and
14 physical description of the mother; the date, place, and
15 location of conception; and the name, date, and place of birth
16 of the minor child or estimated date of birth of the expected
17 minor child, if known. The claim of paternity form shall be
18 signed under oath by the registrant.

19 (4) Upon initial registration, or at any time
20 thereafter, the registrant may designate an address other than
21 his residential address for sending any communication
22 regarding his registration. Similarly, upon initial
23 registration, or at any time thereafter, the registrant may
24 designate, in writing, an agent or representative to receive
25 any communication on his behalf and receive service of
26 process. The agent or representative must file an acceptance
27 of the designation, in writing, in order to receive notice or
28 process. The failure of the designated representative or agent
29 of the registrant to deliver or otherwise notify the
30 registrant of receipt of correspondence from the Florida

31

1 Putative Father Registry is at the registrant's own risk and
2 shall not serve as a valid defense based upon lack of notice.

3 (5) The registrant may, at any time prior to the birth
4 of the child for whom paternity is claimed, execute a
5 notarized written revocation of the claim of paternity
6 previously filed with the Florida Putative Father Registry
7 and, upon receipt of such revocation, the claim of paternity
8 shall be deemed null and void.

9 (6) It is the obligation of the registrant, and if
10 designated under subsection (4), his designated agent or
11 representative, to notify and update the Office of Vital
12 Statistics of any change of address or change in the
13 designation of an agent or representative. The failure of a
14 registrant, or designated agent or representative, to report
15 any such change is at the registrant's own risk and shall not
16 serve as a valid defense based upon lack of notice, unless the
17 person petitioning for termination of parental rights or
18 adoption has actual or constructive notice of the registrant's
19 address and whereabouts from another source.

20 (7) In each proceeding for termination of parental
21 rights or each adoption proceeding filed under this chapter,
22 the petitioner must contact the Office of Vital Statistics of
23 the Department of Health by submitting an application for a
24 search of the Florida Putative Father Registry. The petitioner
25 shall provide the same information, if known, on the search
26 application form which the registrant is required to furnish
27 under subsection (1). Thereafter, the Office of Vital
28 Statistics must issue a certificate signed by the State
29 Registrar certifying:

30 (a) The identity and contact information, if any, for
31 each registered unmarried biological father whose information

1 matches the search request sufficiently so that such person
2 may be considered a possible father of the subject child; or

3 (b) That a diligent search has been made of the
4 registry of registrants who may be the unmarried biological
5 father of the subject child and that no matching registration
6 has been located in the registry. This certificate must be
7 filed with the court in the proceeding to terminate parental
8 rights or the adoption proceeding.

9 (8) If an unmarried biological father does not know
10 the county in which the birth mother resides, gave birth, or
11 intends to give birth, he may initiate an action in any county
12 in the state, subject to the birth mother's right to change
13 venue to the county where she resides.

14 (9) The Department of Health shall establish and
15 maintain a Florida Putative Father Registry through its Office
16 of Vital Statistics, in accordance with the requirements of
17 this section. The Department of Health may charge a nominal
18 fee to cover the costs of filing and indexing the Florida
19 Putative Father Registry and the costs of searching the
20 registry.

21 (10) The Department of Health shall, within existing
22 resources, prepare and adopt by rule application forms for
23 initiating a search of the Florida Putative Father Registry
24 and shall make those forms available through the local offices
25 of the Department of Health and the Department of Children and
26 Family Services and the offices of the clerks of the circuit
27 court.

28 (11) The Department of Health shall produce and
29 distribute, within existing resources, a pamphlet or
30 publication informing the public about the Florida Putative
31 Father Registry and which is printed in English, Spanish, and

1 Creole. The pamphlet shall indicate the procedures for
2 voluntary acknowledgment of paternity, the consequences of
3 acknowledgment of paternity, the consequences of failure to
4 acknowledge paternity, and the address of the Florida Putative
5 Father Registry. Such pamphlets or publications shall be made
6 available for distribution at all offices of the Department of
7 Health and the Department of Children and Family Services, and
8 shall be included in health class curriculums taught in public
9 and charter schools in this state. The Department of Health
10 shall also provide such pamphlets or publications to
11 hospitals, adoption entities, libraries, medical clinics,
12 schools, universities, and providers of child-related
13 services, upon request. In cooperation with the Department of
14 Highway Safety and Motor Vehicles, each person applying for a
15 Florida driver's license, or renewal thereof, and each person
16 applying for a Florida identification card shall be offered
17 the pamphlet or publication informing the public about the
18 Florida Putative Father Registry.

19 (12) The Department of Health shall, within existing
20 resources, provide additional information about the Florida
21 Putative Father Registry and its services to the public in
22 English, Spanish, and Creole using public service
23 announcements, Internet websites, and such other means as it
24 deems appropriate.

25 (13) Access to records of the Florida Putative Father
26 Registry shall be limited to:

27 (a) An adoption entity, upon the filing of a request
28 for a diligent search of the Florida Putative Father Registry
29 in connection with the planned adoption of a child;
30
31

1 (b) The registrant unmarried biological father, upon
2 receipt of notarized request for a copy of that person's
3 registry entry only; and

4 (c) The court, upon issuance of a court order
5 concerning a petitioner acting pro se in an action under this
6 chapter.

7 (14) Except as set forth in subsection (13), the
8 database comprising the Florida Putative Father Registry shall
9 remain confidential and separate from all others in this
10 state, including any local or federal database, and may not be
11 accessed by any other state or federal agency or entity.

12 (15) The filing of a claim of paternity with the
13 Florida Putative Father Registry does not excuse or waive the
14 obligation of a petitioner to comply with the requirements for
15 conducting a diligent search and inquiry with respect to the
16 identity of an unmarried biological father or legal father
17 which are set forth in this chapter.

18 Section 12. Section 63.062, Florida Statutes, is
19 amended to read:

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

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

28 (a) The mother of the minor.

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

30 1. The minor was conceived or born while the father
31 was married to the mother;

- 1 2. The minor is his child by adoption; ~~or~~
2 3. The minor has been established by court proceeding
3 to be his child; or-
4 4. He has acknowledged in writing, signed in the
5 presence of a competent witness, that he is the father of the
6 minor; has filed such acknowledgement with the Office of Vital
7 Statistics of the Department of Health within the required
8 timeframes; and has complied with the requirements of
9 subsection (2).
- 10 ~~(c) If there is no father as set forth in paragraph~~
11 ~~(b), any man established to be the father of the child by~~
12 ~~scientific tests that are generally acceptable within the~~
13 ~~scientific community to show a probability of paternity.~~
- 14 ~~(d) If there is no father as set forth in paragraph~~
15 ~~(b) or paragraph (c), any man who the mother has reason to~~
16 ~~believe may be the father of the minor and who:~~
- 17 1. ~~Has acknowledged in writing, signed in the presence~~
18 ~~of a competent witness, that he is the father of the minor and~~
19 ~~has filed such acknowledgment with the Office of Vital~~
20 ~~Statistics of the Department of Health;~~
- 21 2. ~~Has provided, or has attempted to provide, the~~
22 ~~child or the mother during her pregnancy with support in a~~
23 ~~repetitive, customary manner; or~~
- 24 3. ~~Has been identified by the birth mother as a person~~
25 ~~she has reason to believe may be the father of the minor in an~~
26 ~~action to terminate parental rights pending adoption pursuant~~
27 ~~to this chapter.~~
- 28 ~~(e) Any person who is a party in any pending~~
29 ~~proceeding in which paternity, custody, or termination of~~
30 ~~parental rights regarding the minor is at issue.~~
31

1 ~~(f) Any father who has provided, or has attempted to~~
2 ~~provide, the child or the mother during her pregnancy with~~
3 ~~support in a repetitive, customary manner, if consent has been~~
4 ~~obtained under paragraph (a) and subparagraph (b)1.~~

5 (c)(g) The minor, if more than 12 years of age or
6 older, unless the court in the best interest of the minor
7 dispenses with the minor's consent.

8 (d) Any person lawfully entitled to custody of the
9 minor, if required by the court.

10 (e) The court having jurisdiction to determine custody
11 of the minor, if the person having physical custody of the
12 minor does not have authority to consent to the adoption.

13 (2) In accordance with subsection (1), the consent of
14 an unmarried biological father shall be necessary only if the
15 unmarried biological father has complied with the requirements
16 of this section.

17 (a)1. With regard to a child who is placed with
18 adoptive parents more than 6 months after the child's birth,
19 an unmarried biological father must have developed a
20 substantial relationship with the child, taken some measure of
21 responsibility for the child and the child's future, and
22 demonstrated a full commitment to the responsibilities of
23 parenthood by providing financial support to the child in
24 accordance with the unmarried biological father's ability, if
25 not prevented from doing so by the person or authorized agency
26 having lawful custody of the child, and either:

27 a. Regularly visited the child at least monthly, when
28 physically and financially able to do so, and when not
29 prevented from doing so by the birth mother or the person or
30 authorized agency having lawful custody of the child; or
31

1 b. Maintained regular communication with the child or
2 with the person or agency having the care or custody of the
3 child, when physically or financially unable to visit the
4 child, or when not prevented from doing so by the birth mother
5 or person or authorized agency having lawful custody of the
6 child.

7 2. The mere fact that an unmarried biological father
8 expresses a desire to fulfill his responsibilities towards his
9 child which is unsupported by acts evidencing this intent does
10 not preclude a finding by the court that the unmarried
11 biological father failed to comply with the requirements of
12 this section.

13 3. An unmarried biological father who openly lived
14 with the child for at least 6 months within the 1-year period
15 following the birth of the child and immediately preceding
16 placement of the child with adoptive parents and who openly
17 held himself out to be the father of the child during that
18 period shall be deemed to have developed a substantial
19 relationship with the child and to have otherwise met the
20 requirements of this paragraph.

21 (b) With regard to a child who is younger than 6
22 months of age at the time the child is placed with the
23 adoptive parents, an unmarried biological father must have
24 demonstrated a full commitment to his parental responsibility
25 by performing all of the acts described in this paragraph
26 prior to the time the mother executes her consent for
27 adoption. The unmarried biological father must have:

28 1. Filed a notarized claim of paternity form with the
29 Florida Putative Father Registry within the Office of Vital
30 Statistics of the Department of Health, which form shall be
31 maintained in the confidential registry established for that

1 purpose and shall be considered filed when the notice is
2 entered in the registry of notices from unmarried biological
3 fathers;

4 2. Upon service of a notice of an intended adoption
5 plan or a petition for termination of parental rights pending
6 adoption, executed and filed an affidavit in that proceeding
7 stating that he is personally fully able and willing to take
8 responsibility for the child, setting forth his plans for care
9 of the child, and agreeing to a court order of child support
10 and a contribution to the payment of living and medical
11 expenses incurred for the mother's pregnancy and the child's
12 birth in accordance with his ability to pay; and

13 3. If he had knowledge of the pregnancy, has paid a
14 fair and reasonable amount of the expenses incurred in
15 connection with the mother's pregnancy and the child's birth,
16 in accordance with his financial ability and when not
17 prevented from doing so by the birth mother or person or
18 authorized agency having lawful custody of the child.

19 (c) The petitioner shall file with the court a
20 certificate from the Office of Vital Statistics stating that a
21 diligent search has been made of the Florida Putative Father
22 Registry of notices from unmarried biological fathers
23 described in paragraph (b)1., and that no filing has been
24 found pertaining to the father of the child in question, or,
25 if a filing is found, stating the name of the putative father
26 and the time and date of filing. That certificate shall be
27 filed with the court prior to the entry of a final judgment of
28 termination of parental rights.

29 (d) An unmarried biological father who does not comply
30 with each of the conditions provided in this section is deemed
31 to have waived and surrendered any rights in relation to the

1 child, including the right to notice of any judicial
2 proceeding in connection with the adoption of the child, and
3 his consent to the adoption of the child is not required.

4 (3)(a) Pursuant to chapter 48, an adoption entity may
5 serve upon any unmarried biological father identified by the
6 mother or identified by a diligent search of the Florida
7 Putative Father Registry, or upon an entity whose consent is
8 required, a notice of intended adoption plan at any time prior
9 to the placement of the child in the adoptive home, including
10 prior to the birth of the child. The notice of intended
11 adoption plan must specifically state that if the unmarried
12 biological father desires to contest the adoption plan, he
13 must file with the court, within 30 days after service, a
14 verified response that contains a pledge of commitment to the
15 child in substantial compliance with subparagraph (3)(b)2. The
16 notice of intended adoption plan shall notify the unmarried
17 biological father that he must file a claim of paternity form
18 with the Office of Vital Statistics within 30 days after
19 service upon him, and must provide the adoption entity with a
20 copy of the verified response filed with the court and the
21 claim of paternity form filed with the Office of Vital
22 Statistics. If the party served with the notice of intended
23 adoption plan is an entity, the entity must file, within 30
24 days after service, a verified response setting forth a legal
25 basis for contesting the intended adoption plan, specifically
26 addressing the best interests of the child. If the unmarried
27 biological father or entity whose consent is required fails to
28 properly file a verified response with the court, and, in the
29 case of an unmarried biological father, a claim of paternity
30 form with the Office of Vital Statistics within 30 days after
31 service upon that unmarried biological father or entity whose

1 consent is required, the consent of that unmarried biological
2 father or entity shall no longer be required under this
3 chapter and that party shall be deemed to have waived any
4 claim of rights to the child. Each notice of intended adoption
5 plan served upon an unmarried biological father must include
6 instructions as to the procedure the unmarried biological
7 father must follow to submit a claim of paternity form to the
8 Office of Vital Statistics and the address to which the
9 registration must be directed.

10 (b) If the birth mother identifies a man who she
11 believes is the unmarried biological father of her child, the
12 adoption entity may provide a notice of intended adoption plan
13 pursuant to paragraph (a). If the mother identifies a
14 potential unmarried biological father whose location is
15 unknown, the adoption entity shall conduct a diligent search
16 pursuant to s. 63.088. If, upon completion of a diligent
17 search, that potential unmarried biological father's location
18 remains unknown and a search of the Florida Putative Father
19 Registry fails to reveal a match, the adoption entity shall
20 request in the petition for termination of parental rights
21 pending adoption that the court declare the diligent search to
22 be in compliance with s. 63.088 and to further declare that
23 the adoption entity shall have no further obligation to
24 provide notice to that potential unmarried biological father
25 and that the potential unmarried biological father's consent
26 to the adoption shall not be required.

27 (4)(2) Any person whose consent is required under
28 paragraphs (1)(c)-(e)~~paragraph (1)(c) or paragraph (1)(d)~~ may
29 execute an irrevocable affidavit of nonpaternity in lieu of a
30 consent under this section and by doing so waives notice to
31 all court proceedings after the date of execution. An

1 affidavit of nonpaternity must be executed as provided in s.
2 63.082. The affidavit of nonpaternity may be executed prior to
3 the birth of the child.The person executing the affidavit
4 must receive disclosure under s. 63.085 prior to signing the
5 affidavit.

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

14 ~~(4) An affidavit of nonpaternity must be in~~
15 ~~substantially the following form:~~

16
17 ~~AFFIDAVIT OF NONPATERNITY~~

18
19 ~~1. I have personal knowledge of the facts~~
20 ~~stated in this affidavit.~~

21 ~~2. I have been told that has a~~
22 ~~child. I shall not establish or claim paternity~~
23 ~~for this child, whose name is and whose~~
24 ~~date of birth is~~

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

30 ~~4. With respect to the child referenced~~
31 ~~in this affidavit, I have not provided the~~

1 ~~birth mother with child support or prebirth~~
2 ~~support; I have not provided her with prenatal~~
3 ~~care or assisted her with medical expenses; I~~
4 ~~have not provided the birth mother or her child~~
5 ~~or unborn child with support of any kind, nor~~
6 ~~do I intend to do so.~~

7 ~~5. I have no interest in assuming the~~
8 ~~responsibilities of parenthood for this child.~~
9 ~~I will not acknowledge in writing that I am the~~
10 ~~father of this child or institute court~~
11 ~~proceedings to establish the child as mine.~~

12 ~~6. I do not object to any decision or~~
13 ~~arrangements makes regarding this child,~~
14 ~~including adoption.~~

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

21
22 ~~I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO~~
23 ~~TERMINATE PARENTAL RIGHTS OR FINALIZE AN~~
24 ~~ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.~~

25
26 ~~(5) The court may require that consent be executed by:~~

27 ~~(a) Any person lawfully entitled to custody of the~~
28 ~~minor; or~~

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

1 (6) The petitioner must make good faith and diligent
2 efforts as provided under s. 63.088 to notify, and obtain
3 written consent from, the persons required to consent to
4 adoption under this section.

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

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

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

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

19 (9) A petition for termination of parental rights
20 shall be filed in the appropriate county as determined under
21 s. 63.087(2). If the parent or parents whose rights are to be
22 terminated object to venue in the county where the action was
23 filed, the court may transfer the action to the county where
24 the objecting parent or parents reside, unless the objecting
25 parent has previously executed a waiver of venue.~~(a) In~~
26 ~~cases involving a child younger than 6 months of age in which~~
27 ~~venue for the termination of parental rights may be located in~~
28 ~~a county other than where the parent whose rights are to be~~
29 ~~terminated resides, the adoption entity must obtain, from any~~
30 ~~party executing an affidavit of nonpaternity or consent, a~~
31

1 ~~waiver of venue, which must be filed with the petition and~~
2 ~~must be in substantially the following form:~~

3
4 ~~WAIVER OF VENUE~~

5
6 ~~I understand that I have the right to require~~
7 ~~that the Petition to terminate my parental~~
8 ~~rights be filed in the county where I reside. I~~
9 ~~waive such right so that the Petition to~~
10 ~~Terminate Parental Rights may be filed by~~
11 ~~...(adoption entity)... in ...(county name)...~~
12 ~~County, Florida.~~

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

1 ~~(10)(b)1.~~ The waiver of venue must be a separate
2 document containing no consents, disclosures, or other
3 information unrelated to venue.

4 ~~2. Adoption entities must attach to the waiver of~~
5 ~~venue a form that the parent whose rights are to be terminated~~
6 ~~may use to request a transfer of venue for the proceeding.~~
7 ~~This form must contain the intended caption of the action for~~
8 ~~termination of parental rights and information identifying the~~
9 ~~child which will be sufficient for the clerk to properly file~~
10 ~~the form upon receipt.~~

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

19 Section 13. Section 63.063, Florida Statutes, is
20 created to read:

21 63.063 Responsibility of each party for their own
22 actions; fraud or misrepresentation; statutory compliance.--

23 (1) Each parent of a child conceived or born outside
24 of marriage is responsible for his or her own actions and is
25 not excused from compliance with the provisions of this
26 chapter based upon any action, statement, or omission of the
27 other parent or a third party.

28 (2) Any person injured by a fraudulent representation
29 or action in connection with an adoption is entitled to pursue
30 civil or criminal penalties as provided by law. A fraudulent
31 representation is not a defense to compliance with the

1 requirements of this chapter and is not a basis for dismissing
2 a petition for termination of parental rights or a petition
3 for adoption, for vacating an adoption decree, or for granting
4 custody to the offended party. Custody and adoption
5 determinations shall be based on the best interests of the
6 child, in accordance with s. 61.13.

7 (3) The Legislature finds no practical way to remove
8 all risk of fraud or misrepresentation in adoption proceedings
9 and has provided a method for absolute protection of an
10 unmarried biological father's rights by compliance with the
11 provisions of this chapter. In balancing the rights and
12 interests of the state and of all parties affected by fraud,
13 including specifically, the child, the adoptive parents, and
14 the unmarried biological father, the Legislature has
15 determined that the unmarried biological father is in the best
16 position to prevent or ameliorate the effects of fraud and
17 therefore, has the burden of preventing fraud.

18 (4) The Legislature finds that an unmarried biological
19 father who resides in another state may not, in every
20 circumstance, be reasonably presumed to know of, and comply
21 with, the requirements of this chapter. Therefore, if all of
22 the following requirements have been met, an unmarried
23 biological father may contest a termination of parental rights
24 or subsequent adoption and, prior to entry of the final
25 judgment of adoption, assert his interest in the child.
26 Following such assertion, the court may, in its discretion,
27 proceed with an evidentiary hearing if:

28 (a) The unmarried biological father resides and has
29 resided in another state where the unmarried mother was also
30 located or resided;

31

1 (b) The unmarried mother left that state without
2 notifying or informing the unmarried biological father that
3 she could be located in the State of Florida;

4 (c) The unmarried biological father has, through every
5 reasonable means, attempted to locate the mother, but does not
6 know or have reason to know, that the mother is residing in
7 the State of Florida; and

8 (d) The unmarried biological father has substantially
9 complied with the requirements of the state where the mother
10 previously resided or was located in order to protect and
11 preserve his parental interest and rights to the child.

12 Section 14. Section 63.064, Florida Statutes, is
13 created to read:

14 63.064 Persons whose consent to an adoption may be
15 waived.--The court may excuse the consent of the following
16 individuals to an adoption:

17 (1) A parent who has deserted a child without means of
18 identification or who has abandoned a child;

19 (2) A parent whose parental rights have been
20 terminated by order of a court of competent jurisdiction;

21 (3) A parent who has been judicially declared
22 incompetent and for whom restoration of competency is
23 medically improbable;

24 (4) A legal guardian or lawful custodian of the person
25 to be adopted, other than a parent, who has failed to respond
26 in writing to a request for consent for a period of 60 days or
27 who, after examination of his or her written reasons for
28 withholding consent, is found by the court to be withholding
29 his or her consent unreasonably; or

30 (5) The spouse of the person to be adopted, if the
31 failure of the spouse to consent to the adoption is excused by

1 reason of prolonged and unexplained absence, unavailability,
2 incapacity, or circumstances that are found by the court to
3 constitute unreasonable withholding of consent.

4 Section 15. Section 63.082, Florida Statutes, is
5 amended to read:

6 63.082 Execution of consent to adoption or affidavit
7 of nonpaternity; family social and medical history; withdrawal
8 of consent.--

9 (1)(a) Consent to an adoption or an affidavit of
10 nonpaternity shall be executed as follows:

11 1.(a) If by the person to be adopted, by oral or
12 written statement in the presence of the court or by being
13 acknowledged before a notary public and in the presence of two
14 witnesses.

15 2.(b) If by an agency, by affidavit from its
16 authorized representative.

17 3.(c) If by any other person, in the presence of the
18 court or by affidavit, acknowledged before a notary public and
19 in the presence of two witnesses.

20 4.(d) If by a court, by an appropriate order or
21 certificate of the court.

22 (b) A minor parent has the power to consent to the
23 adoption of his or her child and has the power to relinquish
24 his or her control or custody of the child to an adoption
25 entity. Such consent or relinquishment is valid and has the
26 same force and effect as a consent or relinquishment executed
27 by an adult parent. A minor parent, having executed a consent
28 or relinquishment, may not revoke that consent upon reaching
29 the age of majority or otherwise becoming emancipated.

30 (c) A consent or an affidavit of nonpaternity executed
31 by a minor parent who is 14 years of age or younger must be

1 witnessed by a parent, legal guardian, or court appointed
2 guardian ad litem.

3 (d) The notice and consent provisions of this chapter
4 as they relate to the birth of a child or to legal fathers do
5 not apply in cases in which the child is conceived as a result
6 of a violation of the criminal laws of this state, including,
7 but not limited to, sexual battery, lewd acts perpetrated upon
8 a minor, or incest.

9 (2) A consent that does not name or otherwise identify
10 the adopting parent is valid if the consent contains a
11 statement by the person consenting that the consent was
12 voluntarily executed and that identification of the adopting
13 parent is not required for granting the consent.

14 (3)(a) The department must provide ~~a consent form and~~
15 a family social and medical history form to an adoption entity
16 that intends to place a child for adoption. Forms containing,
17 at a minimum, the same information as the forms promulgated by
18 the department must be attached to the petition to terminate
19 parental rights pending adoption and must contain such
20 biological and sociological information or such information as
21 to the family medical history, regarding the minor and the
22 parents, ~~as is required by the department.~~ This form is not
23 required for adoptions of relatives, adult adoptions, or
24 adoptions of stepchildren. The information must be filed with
25 the court in the termination of parental rights proceeding
26 ~~incorporated into the final home investigation report~~
27 ~~specified in s. 63.125.~~

28 (b) A good-faith and diligent effort must be made to
29 have each parent whose identity is known and whose consent is
30 required ~~Each parent must be~~ interviewed by a representative
31 of the adoption entity ~~department, a licensed child-placing~~

1 ~~agency, or a licensed professional, pursuant to s. 63.092,~~
2 ~~before the consent is executed, unless the parent cannot be~~
3 ~~located or identified. A summary of each interview, or a~~
4 ~~statement that the parent is unidentified, unlocated, or~~
5 ~~unwilling or unavailable to be interviewed ~~unlocated or~~~~
6 ~~unidentified, must be filed with the petition to terminate~~
7 ~~parental rights pending adoption and included in the final~~
8 ~~home investigation report filed under s. 63.125. The interview~~
9 ~~may be excused by the court for good cause. This interview is~~
10 ~~not required for adoptions of relatives, adult adoptions, or~~
11 ~~adoptions of stepchildren.~~

12 ~~(b) Consent executed by an appropriate order or~~
13 ~~certificate of the court if executed under s. 63.062(5)(b)~~
14 ~~must be attached to the petition to terminate parental rights~~
15 ~~pending adoption.~~

16 (c) If any person who is required to consent or social
17 ~~and medical history~~ is unavailable because the person whose
18 ~~consent is required~~ cannot be located or identified, the
19 petition to terminate parental rights pending adoption must be
20 accompanied by the affidavit of diligent search required under
21 s. 63.088.

22 (d) If any person who is required to consent is
23 unavailable because that person is deceased, the petition to
24 terminate parental rights pending adoption must be accompanied
25 by a certified copy of the death certificate. In an adoption
26 of a stepchild or a relative, the certified copy of the death
27 certificate of the person whose consent is required must be
28 attached to the petition for adoption.

29 (4)(a) An affidavit of nonpaternity may be executed
30 before the birth of the minor, however, the consent to an
31

1 ~~adoption or affidavit of nonpaternity~~ shall not be executed
2 before the birth of the minor.

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

19 (c) When the minor to be adopted is older than 6
20 months of age at the time of the execution of the consent ~~not~~
21 ~~placed pursuant to s. 63.052 upon the minor's release from a~~
22 ~~licensed hospital or birth center following birth,~~ the consent
23 to adoption ~~may be executed at any time after the birth of the~~
24 ~~minor. While such consent is valid upon execution, however, it~~
25 is subject to a ~~the~~ 3-day revocation period ~~under subsection~~
26 ~~(7)~~ or may be revoked at any time prior to the placement of
27 the minor with the prospective adoptive parents, whichever is
28 later. If a consent has been executed, this subsection may not
29 be construed to provide a birth parent with more than 3 days
30 to revoke the ~~that~~ consent once the child has been placed with
31 the prospective adoptive parents. ~~The revocation period~~

1 ~~provided in this paragraph does not apply in any case in which~~
2 ~~the waiting period in paragraph (b) applies.~~

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

28 (e) A consent to adoption being executed by the birth
29 parent must be ~~contain~~, in at least 12-point ~~16-point~~
30 boldfaced type, ~~an acknowledgment of the parent's rights in~~
31 substantially the following form:

1
2
3
4
5
6
7
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31

CONSENT TO ADOPTION

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

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

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

IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS

1 VALID, AND BINDING, AND IRREVOCABLE EXCEPT
2 UNDER SPECIFIC LEGAL CIRCUMSTANCES ~~UNLESS~~
3 ~~WITHDRAWN AS PERMITTED BY LAW.~~ IF YOU ARE
4 GIVING UP YOUR RIGHTS TO A NEWBORN CHILD WHO IS
5 TO BE IMMEDIATELY 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 UPON THE BIRTH MOTHER BEFORE
10 SHE ~~YOU~~ MAY SIGN THE CONSENT FOR ADOPTION. A
11 BIRTH MOTHER ~~YOU~~ MUST WAIT 48 HOURS FROM THE
12 TIME OF BIRTH, OR UNTIL THE DAY THE BIRTH
13 MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON
14 HER PATIENT CHART OR IN RELEASE PAPERS, THAT
15 SHE IS FIT TO BE RELEASED FROM A LICENSED
16 HOSPITAL OR BIRTH CENTER, WHICHEVER IS SOONER,
17 BEFORE ~~YOU MAY SIGN~~ THE CONSENT FOR ADOPTION
18 MAY BE EXECUTED. A BIOLOGICAL FATHER MAY
19 EXECUTE A CONSENT AT ANY TIME AFTER THE BIRTH
20 OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT,
21 IT IS VALID, AND BINDING, AND IRREVOCABLE AND
22 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
23 IT WAS OBTAINED BY FRAUD OR ~~UNDER~~ DURESS.
24
25 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR
26 DURESS AND YOU WISH TO REVOKE THAT CONSENT,
27
28 ~~IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO~~
29 ~~IS NOT PLACED FOR ADOPTION UPON THE CHILD'S~~
30 ~~RELEASE FROM A LICENSED HOSPITAL OR BIRTH~~
31 ~~CENTER FOLLOWING BIRTH, YOU MAY SIGN THE~~

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

14
15 ~~TO WITHDRAW YOUR CONSENT DURING THE REVOCATION~~
16 ~~PERIOD, YOU MUST:~~

17 1. ~~NOTIFY THE ADOPTION ENTITY, BY WRITING~~
18 ~~A LETTER, THAT YOU WISH TO WITHDRAW ARE~~
19 ~~WITHDRAWING YOUR CONSENT; AND.~~

20 2. PROVE IN COURT THAT THE CONSENT WAS
21 ~~OBTAINED BY FRAUD OR DURESS. MAIL THE LETTER AT~~
22 ~~A UNITED STATES POST OFFICE WITHIN 3 BUSINESS~~
23 ~~DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1~~
24 ~~BUSINESS DAY AFTER THE DATE OF THE BIRTH~~
25 ~~MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR~~
26 ~~BIRTH CENTER, WHICHEVER IS LATER. THE TERM~~
27 ~~"BUSINESS DAY" MEANS ANY DAY ON WHICH THE~~
28 ~~UNITED STATES POSTAL SERVICE ACCEPTS CERTIFIED~~
29 ~~MAIL FOR DELIVERY.~~

30 3. ~~SEND THE LETTER BY CERTIFIED UNITED~~
31 ~~STATES MAIL WITH RETURN RECEIPT REQUESTED.~~

1 4. ~~PAY POSTAL COSTS AT THE TIME YOU MAIL~~
2 ~~THE LETTER.~~
3 5. ~~KEEP THE CERTIFIED MAIL RECEIPT AS~~
4 ~~PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY~~
5 ~~MANNER.~~
6
7 ~~TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT~~
8 ~~OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE~~
9 ~~PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,~~
10 ~~IN WRITING BY CERTIFIED UNITED STATES MAIL,~~
11 ~~RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY~~
12 ~~YOU SHOULD NOTIFY IS: ... (name of adoption~~
13 ~~entity) ..., ... (address of adoption entity) ...,~~
14 ~~... (phone number of adoption entity)~~
15
16 ~~ONCE THE REVOCATION PERIOD IS OVER, OR THE~~
17 ~~CHILD HAS BEEN PLACED WITH THE PROSPECTIVE~~
18 ~~ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU~~
19 ~~MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN~~
20 ~~PROVE IN COURT THAT CONSENT WAS OBTAINED BY~~
21 ~~FRAUD OR UNDER DURESS.~~

22
23 This statement of rights is not required for the adoption of a
24 relative, an adult, a stepchild, or a child older than 6
25 months of age. A consent form for the adoption of a child
26 older than 6 months of age at the time of execution of consent
27 must contain a statement outlining the revocation rights
28 provided in paragraph (c).

29 ~~(5) Before any consent to adoption or affidavit of~~
30 ~~nonpaternity is executed by a parent, but after the birth of~~
31

1 ~~the minor, all requirements of disclosure under s. 63.085 must~~
2 ~~be met.~~

3 ~~(5)(6)~~ A copy or duplicate original of each consent
4 signed in an action for termination of parental rights pending
5 adoption must be provided to the person who executed the
6 consent to adoption. The copy must be hand delivered, with a
7 written acknowledgment of receipt signed by the person whose
8 consent is required at the time of execution, ~~or mailed by~~
9 ~~first class United States mail to the address of record in the~~
10 ~~court file.~~ If a copy of a consent cannot be provided as
11 required in this subsection, the adoption entity must execute
12 an affidavit stating why the copy of the consent was not
13 delivered, is undeliverable. The original consent and
14 acknowledgment of receipt, ~~an acknowledgment of mailing by the~~
15 ~~adoption entity,~~ or an affidavit stating why the copy of the
16 consent was not delivered, is undeliverable must be filed with
17 the petition for termination of parental rights pending
18 adoption.

19 (6)(a) If a birth parent executes a consent for
20 placement of a minor with an adoption entity or qualified
21 prospective adoptive parents and the minor child is in the
22 custody of the department, but parental rights have not yet
23 been terminated, the adoption consent shall be valid, binding,
24 and enforceable by the court.

25 (b) Upon execution of the consent of the birth parent,
26 the adoption entity shall be permitted to intervene in the
27 dependency case as a party in interest and shall provide the
28 court having jurisdiction over the minor pursuant to the
29 shelter or dependency petition filed by the department with a
30 copy of the preliminary home study of the prospective adoptive
31 parents and any other evidence of the suitability of the

1 placement. The preliminary home study shall be maintained with
2 strictest confidentiality within the dependency court file and
3 the department's file. A preliminary home study is not
4 required if the placement is with a relative.

5 (c) Upon a determination by the court that the
6 prospective adoptive parents are properly qualified to adopt
7 the minor child and that the adoption appears to be in the
8 best interest of the minor child, the court shall immediately
9 order the transfer of custody of the minor child to the
10 prospective adoptive parents, under the supervision of the
11 adoption entity. The adoption entity shall thereafter provide
12 monthly supervision reports to the department until
13 finalization of the adoption.

14 (d) In determining whether or not the best interests
15 of the child will be served by transferring the custody of the
16 minor child to the prospective adoptive parent selected by the
17 birth parent, the court shall give consideration to the rights
18 of the birth parent to determine an appropriate placement for
19 the child, the permanency offered, the child's bonding with
20 any potential adoptive home that the child has been residing
21 in, and the importance of maintaining sibling relationships,
22 if possible.

23 (7)(a) A consent that is being withdrawn under
24 paragraph (4)(c) may be withdrawn at any time prior to the
25 minor's placement with the prospective adoptive parents or by
26 notifying the adoption entity in writing by certified United
27 States mail, return receipt requested, not later than 3
28 business days after execution of the consent ~~or 1 business day~~
29 ~~after the date of the birth mother's discharge from a licensed~~
30 ~~hospital or birth center, whichever occurs later.~~ As used in
31 this subsection, the term "business day" means any day on

1 | which the United States Postal Service accepts certified mail
2 | for delivery.

3 | (b) Upon receiving written notice from a person of
4 | that person's desire to withdraw consent to adoption, the
5 | adoption entity must contact the prospective adoptive parent
6 | to arrange a time certain for the adoption entity to regain
7 | physical custody of the minor, unless, upon a motion for
8 | emergency hearing by the adoption entity, the court determines
9 | in written findings that placement of the minor with the
10 | person withdrawing consent may endanger the minor, or the
11 | person who desires to withdraw consent to the adoption would
12 | not be required to consent to the adoption or has been
13 | determined to have abandoned the child.

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

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

27 | (e) The adoption entity must return the minor within 3
28 | business days after timely and proper notification of the
29 | withdrawal of consent or after the court determines that
30 | withdrawal is valid and binding upon consideration of an
31 | emergency motion, as filed pursuant to paragraph (b), to the

1 physical custody of the person withdrawing consent or the
2 person directed by the court. If the person seeking to validly
3 withdraw consent claims to be the father of the minor, but has
4 not been established to be the father by marriage, court
5 order, or scientific testing, the adoption entity may return
6 the minor to the care and custody of the mother, if she
7 desires such placement, and the mother is not otherwise
8 prohibited by law from having custody of the child.

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

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

17 Section 16. Section 63.085, Florida Statutes, is
18 amended to read:

19 63.085 Disclosure by adoption entity.--

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

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

6
7 ADOPTION DISCLOSURE

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

14
15 1. The name, address, and telephone
16 number of the adoption entity providing this
17 disclosure is:

18 Name: _____

19 Address: _____

20 Telephone Number: _____

21 2. The adoption entity does not provide
22 legal representation or advice to birth parents
23 and birth parents have the right to consult
24 with an attorney of their own choosing to
25 advise them.

26 3. With the exception of an adoption by a
27 stepparent or relative, a child cannot be
28 placed into a prospective adoptive home, unless
29 the prospective adoptive parents have received
30 a favorable preliminary home study, including
31 criminal and child abuse clearances.

1 4. A valid consent for adoption may not
2 be signed by the birth mother until 48 hours
3 after the birth of the child, or the day the
4 birth mother is notified, in writing, that she
5 is fit for discharge from the licensed hospital
6 or birth center. A putative father may sign a
7 valid consent for adoption at any time after
8 the birth of the child.

9 5. A consent for adoption signed before
10 the child attains the age of 6 months is
11 binding and irrevocable from the moment it is
12 signed unless it can be proven in court that
13 the consent was obtained by fraud or duress. A
14 consent for adoption signed after the child
15 attains the age of 6 months is valid from the
16 moment it is signed, however, it may be revoked
17 until the child is placed in an adoptive home,
18 or up to 3 days after it was signed, whichever
19 period is longer.

20 6. A consent for adoption is not valid if
21 the signature of the person who signed the
22 consent was obtained by fraud or duress.

23 7. There are alternatives to adoption,
24 including foster care, relative care, and
25 parenting the child. There may be services and
26 sources of financial assistance in the
27 community available to birth parents, if they
28 choose to parent the child.

29 8. A birth parent has the right to have a
30 witness of his or her choice, who is
31 unconnected with the adoption entity or the

1 adoptive parents, to be present and witness the
2 signing of the consent or affidavit of
3 nonpaternity.

4 9. A birth parent 14 years of age or
5 younger must have a parent, legal guardian, or
6 court appointed guardian ad litem to assist and
7 advise them as to their adoption plan.

8 10. A birth parent has a right to receive
9 supportive counseling from a counselor, social
10 worker, physician, clergy, or attorney, and
11 such counseling would be beneficial to the
12 birth parent.

13 11. The payment of living or medical
14 expenses by the adoptive parents prior to the
15 birth of the child does not, in any way,
16 obligate the birth parent to sign the consent
17 for adoption.

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

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

1 ~~3. Under section 63.082, Florida~~
2 ~~Statutes, a consent to adoption or affidavit of~~
3 ~~nonpaternity may not be signed until after the~~
4 ~~birth of the minor.~~
5 ~~4. Under section 63.082, Florida~~
6 ~~Statutes, if the minor is to be placed for~~
7 ~~adoption with identified prospective adoptive~~
8 ~~parents upon release from a licensed hospital~~
9 ~~or birth center following birth, the consent to~~
10 ~~adoption may not be signed until 48 hours after~~
11 ~~birth or until the day 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 the licensed hospital or birth~~
15 ~~center, whichever is sooner. The consent to~~
16 ~~adoption or affidavit of nonpaternity is valid~~
17 ~~and binding upon execution unless the court~~
18 ~~finds it was obtained by fraud or under duress.~~
19 ~~5. Under section 63.082, Florida~~
20 ~~Statutes, if the minor is not placed for~~
21 ~~adoption with the prospective adoptive parent~~
22 ~~upon release from the hospital or birth center~~
23 ~~following birth, a 3-day revocation period~~
24 ~~applies during which consent may be withdrawn~~
25 ~~for any reason by notifying the adoption entity~~
26 ~~in writing. In order to withdraw consent, the~~
27 ~~written withdrawal of consent must be mailed at~~
28 ~~a United States Post Office no later than 3~~
29 ~~business days after execution of the consent or~~
30 ~~1 business day after the date of the birth~~
31 ~~mother's discharge from a licensed hospital or~~

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

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

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

1 ~~the placement of the child with the prospective~~
2 ~~adoptive parent, whichever occurs later, the~~
3 ~~consent may be withdrawn only if the court~~
4 ~~finds that the consent was obtained by fraud or~~
5 ~~under duress.~~

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

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

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

29 ~~11. Under Florida law, an intermediary~~
30 ~~may represent the legal interests of only the~~
31 ~~prospective adoptive parents. Each person whose~~

1 ~~consent to an adoption is required under~~
2 ~~section 63.062, Florida Statutes, is entitled~~
3 ~~to seek independent legal advice and~~
4 ~~representation before signing any document or~~
5 ~~surrendering parental rights.~~

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

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

1 judgment to which the motion is directed was
2 entered.

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

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

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

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

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

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

1 ~~the minor, all requirements of subsections (1) and (2) for~~
2 ~~making certain disclosures to a parent and obtaining a written~~
3 ~~acknowledgment of receipt must be repeated.~~

4 (3)~~(4)~~ REVOCATION OF CONSENT.--Failure to meet the
5 requirements of subsections (1) or (2)~~(1)-(3)~~ does not
6 constitute grounds for revocation of a consent to adoption or
7 withdrawal of an affidavit of nonpaternity unless the extent
8 and circumstances of such a failure result in a material
9 failure of fundamental fairness in the administration of due
10 process, or the failure constitutes or contributes materially
11 to fraud or duress in obtaining a consent to adoption or
12 affidavit of nonpaternity.

13 Section 17. Section 63.087, Florida Statutes, is
14 amended to read:

15 63.087 Proceeding to terminate parental rights pending
16 adoption; general provisions.--

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

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

24 (1)~~(3)~~ JURISDICTION.--A court of this state which is
25 competent to decide child welfare or custody matters has
26 jurisdiction to hear all matters arising from a proceeding to
27 terminate parental rights pending adoption. ~~All subsequent~~
28 ~~proceedings for the adoption of the minor, if the petition for~~
29 ~~termination is granted, must be conducted by the same judge~~
30 ~~who conducted the termination proceedings, if that judge is~~
31 ~~still available within the division of the court which~~

1 ~~conducts termination or adoption cases or, if that judge is~~
2 ~~unavailable, by another judge within the division.~~

3 (2)~~(4)~~ VENUE.--

4 (a) A petition to terminate parental rights pending
5 adoption must be filed:

6 1. In the county where the child resides ~~resided for~~
7 ~~the previous 6 months;~~

8 2. If the child does not reside in the State of
9 Florida, in the county where the adoption entity is located is
10 ~~younger than 6 months of age or has not continuously resided~~
11 ~~in one county for the previous 6 months, in the county where~~
12 ~~the parent resided at the time of the execution of the consent~~
13 ~~to adoption or the affidavit of nonpaternity;~~

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

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

25 4.5. ~~If neither parent resides in the state, in the~~
26 ~~county where the adoption entity is located. The fact of the~~
27 ~~minor's presence within the state confers jurisdiction on the~~
28 ~~court in proceedings in the minor's case under this chapter,~~
29 ~~as to a parent or guardian if due notice has been given.~~

30 (b) If a petition for termination of parental rights
31 has been filed and a parent whose rights are to be terminated

1 objects to venue, there must be a hearing in which the court
2 shall determine whether that parent intends to assert legally
3 recognized grounds to contest a termination of parental rights
4 and, if so, the court shall immediately transfer venue to the
5 county where that parent resides or resided at the time of the
6 execution of the consent., ~~if there is such a county, or, if~~
7 ~~not, a county where:~~

8 1. ~~At least one parent whose rights are to be~~
9 ~~terminated resides;~~

10 2. ~~At least one parent resided at the time of~~
11 ~~execution of a consent or affidavit of nonpaternity; or~~

12 3. ~~The adoption entity is located, if neither~~
13 ~~subparagraph 1. nor subparagraph 2. applies.~~

14
15 For purposes of selecting venue, the court shall consider the
16 ease of access to the court for the parent who intends to
17 contest a termination of parental rights.

18 (c) If there is a transfer of venue, the court may
19 determine which party shall ~~the adoption entity or the~~
20 ~~petitioner must~~ bear the cost of venue transfer.

21
22 For purposes of the hearing under this subsection, witnesses
23 located in another jurisdiction may testify by deposition or
24 testify by telephone, audiovisual means, or other electronic
25 means before a designated court or at another location.

26 Documentary evidence transmitted from another location by
27 technological means that do not produce an original writing
28 may not be excluded from evidence on an objection based on the
29 means of transmission. The court on its own motion may
30 otherwise prescribe the manner in which and the terms upon
31 which the testimony is taken.

1 ~~(3)~~(5) PREREQUISITE FOR ADOPTION.--A petition for
2 adoption may not be filed until ~~30 days~~ after the date the
3 court enters ~~judge signed~~ the judgment terminating parental
4 rights pending adoption under this chapter or, ~~unless the~~
5 ~~adoptee is an adult or the minor has been the subject of a~~
6 ~~judgment terminating parental rights under chapter 39.~~
7 Adoptions of relatives, adult adoptions, or adoptions of
8 stepchildren shall not be required to file a separate
9 termination of parental rights proceeding pending adoption. In
10 such cases, all required consents, affidavits, notices, and
11 acknowledgements shall be attached to the petition for
12 adoption or filed separately in the adoption proceeding.

13 ~~(4)~~(6) PETITION.--

14 (a) A proceeding seeking to terminate parental rights
15 pending adoption pursuant to this chapter must be initiated by
16 the filing of an original petition after the birth of the
17 minor.

18 (b) The petition may be filed by a parent or person
19 having physical ~~legal~~ custody of the minor. The petition may
20 be filed by an adoption entity only if a parent or person
21 having physical or legal custody who has executed a consent to
22 adoption pursuant to s. 63.082 also consents in writing to the
23 adoption entity filing the petition. The original of such
24 consent must be filed with the petition.

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

28 ~~(d) A petition to terminate parental rights must be~~
29 ~~consolidated with a previously filed petition for a~~
30 ~~declaratory statement filed under s. 63.102. Only one filing~~
31

1 ~~fee may be assessed for both the termination of parental~~
2 ~~rights and declaratory statement petitions.~~

3 ~~(d)~~(e) The petition to terminate parental rights
4 pending adoption must be in writing and signed by the
5 petitioner under oath stating the petitioner's good faith in
6 filing the petition. A written consent to adoption, affidavit
7 of nonpaternity, or affidavit of diligent search under s.
8 63.088, for each person whose consent to adoption is required
9 under s. 63.062, must be executed and attached.

10 ~~(e)~~(f) The petition must include:

11 1. The minor's name, gender, date of birth, and place
12 of birth. The petition must contain all names by which the
13 minor is or has been known, excluding the minor's prospective
14 adoptive name but including the minor's legal name at the time
15 of the filing of the petition. In the case of an infant child
16 whose adoptive name appears on the original birth certificate,
17 the adoptive name shall not be included in the petition, nor
18 shall it be included elsewhere in the termination of parental
19 rights proceeding., ~~to allow interested parties to the action,~~
20 ~~including parents, persons having legal custody of the minor,~~
21 ~~persons with custodial or visitation rights to the minor, and~~
22 ~~persons entitled to notice pursuant to the Uniform Child~~
23 ~~Custody Jurisdiction Act or the Indian Child Welfare Act, to~~
24 ~~identify their own interest in the action.~~

25 2. ~~If the petition is filed before the day the minor~~
26 ~~is 6 months old and if the identity or location of the father~~
27 ~~is unknown, each city in which the mother resided or traveled,~~
28 ~~in which conception may have occurred, during the 12 months~~
29 ~~before the minor's birth, including the county and state in~~
30 ~~which that city is located.~~

31

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

6 ~~a. The minor's mother;~~

7 ~~b. Any man who the mother reasonably believes may be~~
8 ~~the minor's father; and~~

9 ~~c. Any person who has legal custody, as defined in s.~~
10 ~~39.01, of the minor.~~

11
12 ~~if a required name or address is not known, the petition must~~
13 ~~so state.~~

14 ~~2.4.~~ All information required by the Uniform Child
15 Custody Jurisdiction Act and the Indian Child Welfare Act.

16 ~~3.5.~~ A statement of the grounds under s. 63.089 upon
17 which the petition is based.

18 ~~4.6.~~ The name, address, and telephone number of any
19 adoption entity seeking to place the minor for adoption.

20 ~~5.7.~~ The name, address, and telephone number of the
21 division of the circuit court in which the petition is to be
22 filed.

23 ~~6.8.~~ A certification of compliance with the
24 requirements of s. 63.0425 regarding notice to grandparents of
25 an impending adoption.

26 (5) SUMMONS TO BE ISSUED.--Petitioner shall cause a
27 summons to be issued substantially in the form provided in
28 Form 1.902, Florida Rules of Civil Procedure. Petition and
29 summons shall be served upon any person whose consent has been
30 provided but who has not waived service of the pleadings and
31

1 notice of the hearing thereon and also upon any person whose
2 consent is required but who has not provided that consent.

3 (6)(7) ANSWER NOT REQUIRED.--An answer to the petition
4 or any pleading requiring an answer shall need not be filed in
5 accordance with the Florida Rules of Civil Procedure by any
6 minor, parent, or person having legal custody of the minor,
7 but any matter that might be set forth in an answer or other
8 pleading may be pleaded orally before the court or filed in
9 writing. However, Failure to file a written response or to
10 appear at the hearing on the petition constitutes grounds upon
11 which the court may terminate parental rights. The petitioner
12 shall provide notice of the final hearing by United States
13 mail to any person who has been served with the summons and
14 petition for termination of parental rights within the
15 specified time periods.Notwithstanding the filing of any
16 answer or any pleading, any person present at the hearing to
17 terminate parental rights pending adoption whose consent to
18 adoption is required under s. 63.062 must:

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

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

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

27 Section 18. Section 63.088, Florida Statutes, is
28 amended to read:

29 63.088 Proceeding to terminate parental rights pending
30 adoption; notice and service; diligent search.--

31

1 (1) NOTICE REQUIRED.--An unmarried biological father,
2 by virtue of the fact that he has engaged in a sexual
3 relationship with a woman, is deemed to be on notice that a
4 pregnancy and an adoption proceeding regarding that child may
5 occur, and that he has a duty to protect his own rights and
6 interest. He is, therefore, entitled to notice of a birth or
7 adoption proceeding with regard to that child only as provided
8 in this chapter.

9 (2)(1) INITIATE LOCATION AND IDENTIFICATION
10 PROCEDURES.--When the location ~~or identity~~ of a person whose
11 consent to an adoption is required but is not known, the
12 adoption entity must begin the inquiry and diligent search
13 process required by this section within a reasonable time
14 ~~period not later than 7 days~~ after the date on which the
15 person seeking to place a minor for adoption has evidenced in
16 writing to the adoption entity a desire to place the minor for
17 adoption with that entity, or not later than 30 ~~7~~ days after
18 the date any money is provided as permitted under this chapter
19 by the adoption entity for the benefit of the person seeking
20 to place a minor for adoption.

21 (3)(2) LOCATION AND IDENTITY KNOWN.--Before the court
22 may determine that a minor is available for adoption, and in
23 addition to the other requirements set forth in this chapter,
24 each person whose consent is required under s. 63.062, who has
25 not executed an affidavit of nonpaternity, and whose location
26 and identity have been determined by compliance with the
27 procedures in this section must be personally served, pursuant
28 to chapter 48, at least 20 ~~30~~ days before the hearing with a
29 copy of the petition to terminate parental rights pending
30 adoption and with notice in substantially the following form:

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NOTICE OF PETITION AND HEARING
TO TERMINATE PARENTAL RIGHTS
PENDING ADOPTION

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

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

(4)~~(3)~~ REQUIRED INQUIRY.--In proceedings initiated under s. 63.087, the court must conduct an inquiry of the

1 person who is placing the minor for adoption and of any
2 relative or person having legal custody of the minor who is
3 present at the hearing and likely to have the following
4 information regarding the identity of:

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

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

10 (c) Any man who has adopted the minor;

11 (d)(e) Any man with whom the mother was cohabiting at
12 any time when conception of the minor may have occurred; and

13 ~~(d) Any person the mother has reason to believe may be~~
14 ~~the father and from whom she has received payments or promises~~
15 ~~of support with respect to the minor or because of her~~
16 ~~pregnancy;~~

17 ~~(e) Any person the mother has named as the father on~~
18 ~~the birth certificate of the minor or in connection with~~
19 ~~applying for or receiving public assistance;~~

20 (e)(f) Any person who has acknowledged or claimed
21 paternity of the minor. and

22 ~~(g) Any person the mother has reason to believe may be~~
23 ~~the father.~~

24

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

31

1 The inquiry required under this subsection may be conducted
2 before the birth of the minor.

3 (5)~~(4)~~ LOCATION UNKNOWN; IDENTITY KNOWN.--If the
4 inquiry by the court under subsection(4)~~(3)~~ identifies any
5 person whose consent to adoption is required under s. 63.062
6 and who has not executed a consent to adoption or an affidavit
7 of nonpaternity, and the location of the person from whom
8 consent is required is unknown, the adoption entity must
9 conduct a diligent search for that person which must include
10 inquiries concerning:

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

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

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

24 (d) Names and addresses of relatives to the extent
25 such can be reasonably obtained from the petitioner or other
26 sources, contacts with those relatives, and inquiry as to the
27 person's last known address. The petitioner shall pursue any
28 leads of any addresses to which the person may have moved.
29 ~~Relatives include, but are not limited to, parents, brothers,
30 sisters, aunts, uncles, cousins, nieces, nephews,~~

31

1 ~~grandparents, great-grandparents, former or current in-laws,~~
2 ~~stepparents, and stepchildren;~~

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

5 (f) Telephone listings in the area where the person
6 last resided;

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

9 (h) Highway patrol records in the state where the
10 person last resided;

11 (i) Department of Corrections records in the state
12 where the person last resided;

13 (j) Hospitals in the area where the person last
14 resided;

15 (k) Records of utility companies, including water,
16 sewer, cable television, and electric companies, in the area
17 where the person last resided;

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

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

22 (n) Search of one Internet databank locator service. +
23 and

24 ~~(o) Information held by all medical providers who~~
25 ~~rendered medical treatment or care to the birth mother and~~
26 ~~child, including the identity and location information of all~~
27 ~~persons listed by the mother as being financially responsible~~
28 ~~for the uninsured expenses of treatment or care and all~~
29 ~~persons who made any such payments.~~

30
31

1 ~~Any person contacted by a petitioner or adoption entity who is~~
2 ~~requesting information pursuant to this subsection must~~
3 ~~release the requested information to the petitioner or~~
4 ~~adoption entity, except when prohibited by law, without the~~
5 ~~necessity of a subpoena or court order.~~

6
7 An affidavit of diligent search executed by the petitioner and
8 the adoption entity must be filed with the court confirming
9 completion of each aspect of the diligent search enumerated in
10 this subsection and specifying the results. The diligent
11 search required under this subsection may be conducted before
12 the birth of the minor.

13 (6)(5) CONSTRUCTIVE SERVICE LOCATION UNKNOWN OR
14 ~~IDENTITY UNKNOWN~~.--This subsection only applies if, as to any
15 person whose consent is required under s. 63.062 and who has
16 not executed a consent to adoption or an affidavit of
17 nonpaternity, and the location or identity of the person is
18 unknown and the inquiry under ~~subsection (3) fails to identify~~
19 ~~the person or the diligent search under~~ subsection (4) fails
20 to locate the person. The unlocated ~~or unidentified~~ person
21 must be served notice under subsection (3)(2) by constructive
22 service in the manner provided in chapter 49 ~~in each county~~
23 ~~identified in the petition, as provided in s. 63.087(6)~~. The
24 notice shall be published in the county where the person was
25 last known to have resided.The notice, in addition to all
26 information required under ~~in the petition under s. 63.087(6)~~
27 ~~and~~ chapter 49, must include ~~contain~~ a physical description,
28 including, but not limited to, age, race, hair and eye color,
29 and approximate height and weight of the person, minor's
30 ~~mother and of any person the mother reasonably believes may be~~
31 ~~the father;~~ the minor's date of birth, and the place of birth

1 of the minor. Constructive service by publication shall not be
2 required to provide notice to an identified birth father whose
3 consent is not required pursuant to ss. 63.062 and 63.067+ and
4 any date and city, including the county and state in which the
5 city is located, in which conception may have occurred. If any
6 of the facts that must be included in the notice under this
7 subsection are unknown and cannot be reasonably ascertained,
8 the notice must so state.

9 Section 19. Section 63.089, Florida Statutes, is
10 amended to read:

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

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

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

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

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

21 2. An affidavit of nonpaternity under s. 63.082 has
22 been executed and filed with the court; ~~or~~

23 3. Notice has been provided under ss. 63.087 and
24 63.088; or

25 4. The certificate from the Office of Vital
26 Statistics, has been provided to the court stating that a
27 diligent search has been made of the registry of notices from
28 unmarried biological fathers and that no filing has been found
29 pertaining to the father of the child in question or, if a
30 filing is found, stating the name of the putative father and
31 the time and date of the filing.

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

3 1. At least 20 ~~30~~ days have elapsed since the date of
4 personal service and an affidavit of service has been filed
5 with the court;

6 2. At least 30 ~~60~~ days have elapsed since the first
7 date of publication of constructive service and an affidavit
8 of service has been filed with the court; or

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

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

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

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

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

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

28 (c) Has been served with a notice of the intended
29 adoption plan in accordance with the provisions of s.
30 63.062(3) and has failed to respond within the designated time
31 period;

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

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

10 (f)~~(e)~~ Is a parent of the person to be adopted, which
11 parent has been judicially declared incapacitated with
12 restoration of competency found to be medically improbable;

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

19 (h)~~(g)~~ Has been properly served notice of the
20 proceeding in accordance with the requirements of this
21 chapter, but has been found by the court, after examining
22 written reasons for the withholding of consent, to be
23 unreasonably withholding his or her consent; or

24 (i)~~(h)~~ Is the spouse of the person to be adopted who
25 has failed to consent, and the failure of the spouse to
26 consent to the adoption is excused by reason of prolonged and
27 unexplained absence, unavailability, incapacity, or
28 circumstances that are found by the court to constitute
29 unreasonable withholding of consent.

30 (4) FINDING OF ABANDONMENT.--A finding of abandonment
31 resulting in a termination of parental rights must be based

1 upon clear and convincing evidence that a parent or person
2 having legal custody has abandoned the child in accordance
3 with the definition contained in s. 63.032(1). A finding of
4 abandonment may ~~not~~ be based upon ~~a lack of emotional support~~
5 ~~to a birth mother during her pregnancy, but may be based upon~~
6 emotional abuse or a refusal to provide reasonable financial
7 support, when able, to a birth mother during her pregnancy.
8 If, in the opinion of the court, the efforts of a parent or
9 person having legal custody of the child to support and
10 communicate with the child are only marginal efforts that do
11 not evince a settled purpose to assume all parental duties,
12 the court may declare the child to be abandoned. In making
13 this decision, the court may consider the conduct of a father
14 toward the child's mother during her pregnancy.

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

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

22 ~~2. Whether other persons prevented the person alleged~~
23 ~~to have abandoned the child from making the efforts referenced~~
24 ~~in this subsection;~~

25 ~~2.3.~~ Whether the person alleged to have abandoned the
26 child, while being able, failed ~~refused~~ to provide financial
27 support ~~after such person was informed he may be the father of~~
28 ~~the child;~~

29 ~~3.4.~~ Whether the person alleged to have abandoned the
30 child, while being able, failed ~~refused~~ to pay for medical
31 treatment ~~when such payment was requested by the person having~~

1 ~~legal custody of the child and those expenses were not covered~~
2 ~~by insurance or other available sources; and~~

3 4.5. Whether the amount of support provided or medical
4 expenses paid was appropriate, taking into consideration the
5 needs of the child and relative means and resources available
6 to the person alleged to have abandoned the child, ~~and~~
7 ~~available to the person having legal custody of the child~~
8 ~~during the period the child allegedly was abandoned; and~~

9 ~~6.~~ Whether the person having legal custody of the
10 child made the child's whereabouts known to the person alleged
11 to have abandoned the child, advised that person of the needs
12 of the child or the needs of the mother of an unborn child
13 with regard to the pregnancy, or informed that person of
14 events such as medical appointments and tests relating to the
15 child or, if unborn, the pregnancy.

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

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

23 2. The incarcerated parent has been determined by the
24 court to be a violent career criminal as defined in s.
25 775.084, a habitual violent felony offender as defined in s.
26 775.084, convicted of child abuse as defined in s. 827.03, or
27 a sexual predator as defined in s. 775.21; has been convicted
28 of first degree or second degree murder in violation of s.
29 782.04 or a sexual battery that constitutes a capital, life,
30 or first degree felony violation of s. 794.011; or has been
31 convicted of an offense in another jurisdiction which is

1 substantially similar to one of the offenses listed in this
2 subparagraph. As used in this section, the term "substantially
3 similar offense" means any offense that is substantially
4 similar in elements and penalties to one of those listed in
5 this subparagraph, and that is in violation of a law of any
6 other jurisdiction, whether that of another state, the
7 District of Columbia, the United States or any possession or
8 territory thereof, or any foreign jurisdiction; or

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

14 ~~(c) The only conduct of a father toward a mother~~
15 ~~during pregnancy that the court may consider in determining~~
16 ~~whether the child has been abandoned is conduct that occurred~~
17 ~~after the father was informed he may be the father of the~~
18 ~~child or after diligent search and notice as provided in s.~~
19 ~~63.088 have been made to inform the father that he is, or may~~
20 ~~be, the father of the child.~~

21 (5) DISMISSAL OF PETITION ~~WITH PREJUDICE~~.--If the
22 court does not find by clear and convincing evidence that
23 parental rights of a parent should be terminated pending
24 adoption, the court must dismiss the petition ~~with prejudice~~
25 and that parent's parental rights that were the subject of
26 such petition shall remain in full force under the law. The
27 order must include written findings in support of the
28 dismissal, including findings as to the criteria in subsection
29 (4) if rejecting a claim of abandonment. Parental rights may
30 not be terminated based upon a consent that the court finds
31 has been timely withdrawn under s. 63.082 or a consent to

1 adoption or affidavit of nonpaternity that the court finds was
2 obtained by fraud or ~~under~~ duress. The court must enter an
3 order based upon written findings providing for the placement
4 of the minor. The court may order scientific testing to
5 determine the paternity of the minor at any time during which
6 the court has jurisdiction over the minor. Further
7 proceedings, if any, regarding the minor must be brought in a
8 separate custody action under chapter 61, a dependency action
9 under chapter 39, or a paternity action under chapter 742.

10 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
11 ADOPTION.--

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

15 (b) Within 7 days ~~24 hours~~ after filing, the court
16 shall mail a copy of the judgment to the department, ~~the~~
17 ~~petitioner, those persons required to give consent under s.~~
18 ~~63.062, and the respondent.~~ The clerk shall execute a
19 certificate of each mailing.

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

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

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

4 (b) No later than 30 days after the filing of a motion
5 under this subsection, the court must conduct a preliminary
6 hearing to determine what contact, if any, shall be permitted
7 between a parent and the child pending resolution of the
8 motion. Such contact shall be considered only if it is
9 requested by a parent who has appeared at the hearing. If the
10 court orders contact between a parent and child, the order
11 must be issued in writing as expeditiously as possible and
12 must state with specificity any provisions regarding contact
13 with persons other than those with whom the child resides.

14 (c) At the preliminary hearing, the court, upon the
15 motion of any party or upon its own motion, may order
16 scientific testing to determine the paternity of the minor if
17 the person seeking to set aside the judgment is alleging to be
18 the child's father and that fact has not previously been
19 determined by legitimacy or scientific testing. The court may
20 order ~~supervised~~ visitation with a person for whom scientific
21 testing for paternity has been ordered and that person has
22 previously established a bonded relationship with the child.
23 ~~Such visitation shall be conditioned upon the filing of those~~
24 ~~test results with the court and such results establishing that~~
25 ~~person's paternity of the minor.~~

26 (d) Unless otherwise agreed between the parties or for
27 good cause shown ~~No later than 45 days after the preliminary~~
28 ~~hearing,~~ the court shall ~~must~~ conduct a final hearing on the
29 motion for relief from to set aside the judgment within 45
30 days after the filing, and enter its written order as
31 expeditiously as possible thereafter.

1 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
2 records pertaining to a petition to terminate parental rights
3 pending adoption are related to the subsequent adoption of the
4 minor and are subject to the provisions of s. 63.162. The
5 confidentiality provisions of this chapter do not apply to the
6 extent information regarding persons or proceedings must be
7 made available as specified under s. 63.088.

8 Section 20. Section 63.092, Florida Statutes, is
9 amended to read:

10 63.092 Report to the court of intended placement by an
11 adoption entity; at-risk placement; preliminary study.--

12 (1) REPORT TO THE COURT.--The adoption entity must
13 report any intended placement of a minor for adoption with any
14 person not related within the third degree or a stepparent if
15 the adoption entity has knowledge of, or participates in, such
16 intended placement. The report must be made to the court
17 before the minor is placed in the home, or within 48 hours
18 thereafter.

19 (2) AT-RISK PLACEMENT.--If the minor is placed in the
20 prospective adoptive home before the parental rights of the
21 minor's parents are terminated under s. 63.089, the placement
22 is an at-risk placement. If the placement is an at-risk
23 placement, the prospective adoptive parents must acknowledge
24 in writing before the minor may be placed in the prospective
25 adoptive home that the placement is at risk. The prospective
26 adopting parents shall be advised by the adoption entity, in
27 writing, and that the minor is subject to removal from the
28 prospective adoptive home by the adoption entity or by court
29 order, at any time prior to the finalization of the adoption.

30 (3) PRELIMINARY HOME STUDY.--Before placing the minor
31 in the intended adoptive home, a preliminary home study must

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

1 to s. 435.045 through the Department of Law Enforcement on the
2 intended adoptive parents;

3 (c) An assessment of the physical environment of the
4 home;

5 (d) A determination of the financial security of the
6 intended adoptive parents;

7 (e) Documentation of counseling and education of the
8 intended adoptive parents on adoptive parenting;

9 (f) Documentation that information on adoption and the
10 adoption process has been provided to the intended adoptive
11 parents;

12 (g) Documentation that information on support services
13 available in the community has been provided to the intended
14 adoptive parents; and

15 (h) A copy of each signed acknowledgment of receipt of
16 disclosure required by s. 63.085.

17

18 If the preliminary home study is favorable, a minor may be
19 placed in the home pending entry of the judgment of adoption.
20 A minor may not be placed in the home if the preliminary home
21 study is unfavorable. If the preliminary home study is
22 unfavorable, the adoption entity may, within 20 days after
23 receipt of a copy of the written recommendation, petition the
24 court to determine the suitability of the intended adoptive
25 home. A determination as to suitability under this subsection
26 does not act as a presumption of suitability at the final
27 hearing. In determining the suitability of the intended
28 adoptive home, the court must consider the totality of the
29 circumstances in the home. No minor may be placed in a home in
30 which there resides any person determined by the court to be a
31

1 sexual predator as defined in s. 775.21 or to have been
2 convicted of an offense listed in s. 63.089(4)(b)2.

3 Section 21. Subsections (2), (3), (5) and (6) of
4 section 63.097, Florida Statutes, are amended to read:

5 63.097 Fees.--

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

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

14 Reasonable living expenses are rent, utilities, basic
15 telephone service, food, toiletries, necessary clothing,
16 transportation, insurance, and expenses found by the court to
17 be necessary for the health and well-being of the birth mother
18 and the unborn child. Such expenses may be paid during the
19 pregnancy and for a period of up to 6 weeks post partum.

20 (b) Reasonable and necessary medical expenses. Such
21 expenses may be paid during the pregnancy and for a period of
22 up to 6 weeks post partum.

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

28 (d) Court filing expenses, court costs, and other
29 litigation expenses and birth certificate and medical record
30 expenses.

31

1 (e) Costs associated with advertising under s.
2 63.212(1)(g).

3 (f) The following professional fees:

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

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

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

26 (3) Approval ~~Prior approval~~ of the court is not
27 required until the ~~cumulative~~ total of amounts permitted under
28 subsection (2) exceeds:

29 (a) \$5,000~~\$2,500~~ in legal or other fees;

30 (b) \$800~~\$500~~ in court costs; or

31

1 (c) \$5,000~~\$3,000~~ in reasonable and necessary living
2 and medical expenses. ~~or~~

3 ~~(d) \$1,500 cumulative expenses that are related to the~~
4 ~~minor, the pregnancy, a parent, or adoption proceeding, which~~
5 ~~expenses are incurred prior to the date the prospective~~
6 ~~adoptive parent retains the adoption entity.~~

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

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

11 (b) Any ~~lump-sum payment to the entity which is~~
12 ~~nonrefundable directly to the payor or which is not itemized~~
13 and documented on the affidavit filed under s. 63.132.

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

21 (6) Unless otherwise indicated in this section, when
22 an adoption entity uses the services of a licensed
23 child-placing agency, a professional, any other person or
24 agency pursuant to s. 63.092, or, if necessary, the
25 department, the person seeking to adopt the child must pay the
26 licensed child-placing agency, professional, other person or
27 agency, or the department an amount equal to the cost of all
28 services performed, including, but not limited to, the cost of
29 conducting the preliminary home study, counseling, and the
30 final home investigation. ~~The court, upon a finding that the~~
31

1 ~~person seeking to adopt the child is financially unable to pay~~
2 ~~that amount, may order that such person pay a lesser amount.~~

3 Section 22. Section 63.102, Florida Statutes, is
4 amended to read:

5 63.102 Filing of petition for adoption or declaratory
6 statement; venue; proceeding for approval of fees and costs.--

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

21 (2) VENUE.--A petition for adoption or for a
22 declaratory statement as to the adoption contract shall be
23 filed in the county where the petition for termination of
24 parental rights was granted, unless the court, in accordance
25 with s. 47.122, changes the venue to the county where the
26 petitioner or petitioners or the minor resides or where the
27 adoption entity with which the minor has been placed is
28 located. The circuit court in this state must retain
29 jurisdiction over the matter until a final judgment is entered
30 on the adoption. The Uniform Child Custody Jurisdiction Act

31

1 does not apply until a final judgment is entered on the
2 adoption.

3 (3) FILING OF ADOPTION PETITION REQUIRED.--Unless
4 leave of court is granted for good cause shown, a petition for
5 adoption shall be filed not later than 60 days after entry of
6 the final judgment terminating parental rights.~~Except for~~
7 ~~adoptions involving placement of a minor with a relative~~
8 ~~within the third degree of consanguinity, a petition for~~
9 ~~adoption in an adoption handled by an adoption entity shall be~~
10 ~~filed within 60 working days after entry of the judgment~~
11 ~~terminating parental rights. If no petition is filed within~~
12 ~~60 days, any interested party, including the state, may file~~
13 ~~an action challenging the prospective adoptive parent's~~
14 ~~physical custody of the minor.~~

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

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

28 (a) The petition must be filed jointly by the adoption
29 entity with the consent of the parties to ~~and each person who~~
30 ~~enters into~~ the agreement.

31

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

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

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

28 (e) A declaratory statement as to the adoption
29 contract, regardless of when filed, shall be consolidated with
30 any related petition for adoption. The clerk of the court
31 shall only assess one filing fee that includes the adoption

1 action, the declaratory statement petition, and the petition
2 for termination of parental rights.

3 ~~(e) When a petition for a declaratory statement as to~~
4 ~~the adoption contract is filed prior to the commencement of~~
5 ~~proceedings to terminate parental rights, it must be filed in~~
6 ~~accordance with the venue requirements for the filing of the~~
7 ~~petition terminating parental rights under s. 63.087. Pursuant~~
8 ~~to s. 63.087, a previously filed petition for a declaratory~~
9 ~~statement filed under this section must be consolidated with a~~
10 ~~related subsequently filed petition for termination of~~
11 ~~parental rights. If the petition for declaratory statement is~~
12 ~~filed after the judgment terminating parental rights has been~~
13 ~~entered, the action for declaratory statement must be~~
14 ~~consolidated with any related petition for adoption. Only one~~
15 ~~filing fee may be assessed for both the adoption and~~
16 ~~declaratory statement petitions.~~

17 (f) Prior approval of fees and costs by the court does
18 not obligate the parent to ultimately relinquish the minor for
19 adoption.

20 (6) STEPPARENT, RELATIVE, AND ADULT
21 ADOPTIONS.--Petitions for the adoption of a stepchild, a
22 relative, or an adult shall not require the filing of a
23 separate judgment or separate proceeding terminating parental
24 rights pending adoption. The final judgment of adoption shall
25 have the effect of terminating parental rights simultaneously
26 with the granting of the decree of adoption.

27 Section 23. Section 63.112, Florida Statutes, is
28 amended to read:

29 63.112 Petition for adoption; description; report or
30 recommendation, exceptions; mailing.--

31

- 1 (1) ~~A sufficient number of copies of~~ The petition for
2 adoption shall be signed and verified by the petitioner and
3 filed with the clerk of the court ~~so that service may be made~~
4 ~~under subsection (4) and shall state:~~
- 5 (a) The date and place of birth of the person to be
6 adopted, if known;
- 7 (b) The name to be given to the person to be adopted;
- 8 (c) The date petitioner acquired custody of the minor
9 and the name of the adoption entity ~~person~~ placing the minor,
10 if any;
- 11 (d) The full name, age, and place and duration of
12 residence of the petitioner;
- 13 (e) The marital status of the petitioner, including
14 the date and place of marriage, if married, and divorces, if
15 applicable to the adoption of a stepparent ~~any;~~
- 16 (f) A statement that the petitioner is able to provide
17 for material needs of the child ~~The facilities and resources~~
18 ~~of the petitioner, including those under a subsidy agreement,~~
19 ~~available to provide for the care of the minor to be adopted;~~
- 20 (g) A description and estimate of the value of any
21 property of the person to be adopted;
- 22 (h) The case style and date of entry of the judgment
23 terminating parental rights or, if the adoptee is an adult or
24 a minor relative or a stepchild of the petitioner, the
25 address, if known, of any person whose consent to the adoption
26 is required and, if such person has not consented, the facts
27 or circumstances that excuse the lack of consent to justify a
28 termination of parental rights; and
- 29 (i) The reasons why the petitioner desires to adopt
30 the person.
31

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

3 (a) A certified copy of the court judgment terminating
4 parental rights under chapter 39 or under this chapter or, if
5 the adoptee is an adult or a minor relative or stepchild of
6 the petitioner, the required consent, unless such consent is
7 excused by the court.

8 (b) The favorable preliminary home study of the
9 department, licensed child-placing agency, or professional
10 pursuant to s. 63.092, as to the suitability of the home in
11 which the minor has been placed, unless the petitioner is a
12 stepparent or a relative.

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

15 (d) ~~The surrender document must include~~ Documentation
16 that an interview was held with the minor, if older than 12
17 years of age, unless the court, in the best interest of the
18 minor, dispenses with the minor's consent under s.
19 63.062(1)(g).

20 (3) Unless ordered by the court, no report or
21 recommendation is required when the placement is a stepparent
22 adoption or an adult adoption or when the minor is a relative
23 of related to one of the adoptive parents ~~within the third~~
24 ~~degree.~~

25 ~~(4) The clerk of the court shall mail a copy of the~~
26 ~~petition within 24 hours after filing, and execute a~~
27 ~~certificate of mailing, to the adoption entity placing the~~
28 ~~minor, if any.~~

29 Section 24. Section 63.122, Florida Statutes, is
30 amended to read:

31 63.122 Notice of hearing on petition.--

1 (1) ~~After the petition to adopt a minor is filed, the~~
2 ~~court must establish a time and place for hearing the~~
3 ~~petition.~~The hearing on the petition to adopt a minor may not
4 be held sooner than 30 days after the date the judgment
5 terminating parental rights was entered or sooner than 90 days
6 after the date the minor was placed in the physical custody of
7 the petitioner, unless good cause is shown for a shortening of
8 these time periods. The minor must remain under the
9 supervision of the adoption entity until the adoption becomes
10 final. When the adoptee is an adult, the hearing may be held
11 immediately after the filing of the petition. If the
12 petitioner is a stepparent or a relative of the adoptee spouse
13 ~~of the birth parent~~, the hearing may be held immediately after
14 the filing of the petition if all persons whose consent is
15 required have executed a valid consent and the consent has
16 been filed with the court.

17 (2) Notice of hearing must be given as prescribed by
18 the Florida Rules of Civil Procedure ~~rules of civil procedure~~,
19 and service of process must be made as specified by law for
20 civil actions.

21 (3) Upon a showing by the petitioner that the safety
22 and welfare ~~privacy~~ of the petitioner or minor may be
23 endangered, the court may order the names of the petitioner or
24 minor, or both, to be deleted from the notice of hearing and
25 from the copy of the petition attached thereto, provided the
26 substantive rights of any person will not thereby be affected.

27 (4) Notice of the hearing must be given by the
28 petitioner to the adoption entity that places the minor.

29 (5) ~~After filing the petition to adopt an adult, a~~
30 ~~notice of the time and place of the hearing must be given to~~
31 ~~any person whose consent to the adoption is required but who~~

1 ~~has not consented.~~ the court may order an appropriate
2 investigation to assist in determining whether the adoption is
3 in the best interest of the persons involved, and in
4 accordance with state law.

5 Section 25. Subsection (2) of section 63.125, Florida
6 Statutes, is amended to read:

7 63.125 Final home investigation.--

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

13 Section 26. Subsections (1) and (4) of section 63.132,
14 Florida Statutes, are amended to read:

15 63.132 Affidavit of expenses and receipts.--

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

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

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

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

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

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

10 1. The birth of the minor.
11 2. The placement of the minor with the petitioner.
12 3. The medical or hospital care received by the mother
13 or by the minor during the mother's prenatal care and
14 confinement.

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

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

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

26 (4) This section does not apply to an adoption by a
27 stepparent or an adoption of a relative or adult ~~whose spouse~~
28 ~~is a parent of the child.~~

29 Section 27. Subsection (1) of section 63.135, Florida
30 Statutes, is amended to read:

31

1 63.135 Information under oath to be submitted to the
2 court.--

3 (1) Each party in an adoption proceeding ~~involving a~~
4 ~~child over the age of 6 months~~, in the first pleading or in an
5 affidavit attached to that pleading, shall give information
6 under oath as to the child's present address, the places where
7 the child has lived within the last 5 years, and the names and
8 present addresses of the persons with whom the child has lived
9 during that period. In the pleading or affidavit each party
10 shall further declare under oath whether:

11 (a) The party has participated as a party or witness
12 or in any other capacity in any other litigation concerning
13 the custody of the same child in this or any other state;

14 (b) The party has information of any custody
15 proceeding concerning the child pending in a court of this or
16 any other state; and

17 (c) The party knows of any person not a party to the
18 proceedings who has physical custody of the child or claims to
19 have custody or visitation rights with respect to the child.

20 Section 28. Subsections (1) and (4) of section 63.142,
21 Florida Statutes, are amended to read:

22 63.142 Hearing; judgment of adoption.--

23 (1) APPEARANCE.--The petitioner and the person to be
24 adopted shall appear either in person or, with the permission
25 of the court, telephonically, before a person authorized to
26 administer an oath at the hearing on the petition for
27 adoption, unless:

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

29 (b) The appearance ~~presence~~ of either is excused by
30 the court for good cause.

31

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

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

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

31

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

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

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

19 Section 29. Section 63.152, Florida Statutes, is
20 amended to read:

21 63.152 Application for new birth record.--Within 30
22 days after entry of a judgment of adoption, the clerk of the
23 court, and in agency adoptions, any child-placing agency
24 ~~licensed by the department,~~ shall transmit ~~prepare~~ a certified
25 statement of the entry to ~~for~~ the state registrar of vital
26 statistics on a form provided by the registrar. A new birth
27 record containing the necessary information supplied by the
28 certificate shall be issued by the registrar on application of
29 the adopting parents or the adopted person.

30 Section 30. Subsection (2) of section 63.162, Florida
31 Statutes, is amended to read:

1 63.162 Hearings and records in adoption proceedings;
2 confidential nature.--

3 (2) All papers and records pertaining to the adoption,
4 including the original birth certificate, whether part of the
5 permanent record of the court or a file in the office of an
6 adoption entity are confidential and subject to inspection
7 only upon order of the court; however, the petitioner in any
8 proceeding for adoption under this chapter may, at the option
9 of the petitioner, make public the reasons for a denial of the
10 petition for adoption. The order must specify which portion of
11 the records are subject to inspection, and it may exclude the
12 name and identifying information concerning the parent or
13 adoptee. Papers and records of the department, a court, or any
14 other governmental agency, which papers and records relate to
15 adoptions, are exempt from s. 119.07(1). In the case of
16 adoptions other than those handled by the department or a
17 child-placing agency licensed by the department ~~a nonagency~~
18 ~~adoption~~, the department must be given notice of hearing and
19 be permitted to present to the court a report on the
20 advisability of disclosing or not disclosing information
21 pertaining to the adoption. In the case of an agency
22 adoption, the licensed child-placing agency must be given
23 notice of hearing and be permitted to present to the court a
24 report on the advisability of disclosing or not disclosing
25 information pertaining to the adoption. This subsection does
26 not prohibit the department from inspecting and copying any
27 official record pertaining to the adoption that is maintained
28 by the department or from inspecting and copying any of the
29 official records maintained by an agency licensed by the
30 department and does not prohibit an agency from inspecting and
31

1 copying any official record pertaining to the adoption that is
2 maintained by that agency.

3 Section 31. Subsection (1) of section 63.167, Florida
4 Statutes, is amended to read:

5 63.167 State adoption information center.--

6 (1) The department shall establish a state adoption
7 information center for the purpose of increasing public
8 knowledge about adoption and promoting to adolescents and
9 pregnant women the availability of adoption services. The
10 department shall contract with one or more ~~a~~ licensed
11 child-placing agencies ~~agency~~ to operate the state adoption
12 information center.

13 Section 32. Section 63.182, Florida Statutes, is
14 amended to read:

15 63.182 Statute of repose.--Notwithstanding s. 95.031
16 or s. 95.11 or any other statute, +

17 ~~(1)~~ an action or proceeding of any kind to vacate, set
18 aside, or otherwise nullify a judgment of adoption or an
19 underlying judgment terminating parental rights on any ground
20 may not, ~~including duress but excluding fraud, shall in no~~
21 ~~event~~ be filed more than 1 year after entry of the judgment
22 terminating parental rights.

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

28 Section 33. Section 63.185, Florida Statutes, is
29 repealed.

30 Section 34. Subsection (1) of section 63.207, Florida
31 Statutes, is amended to read:

1 63.207 Out-of-state placement.--

2 (1) Unless the parent placing a minor for adoption
3 files an affidavit that the parent chooses to place the minor
4 outside the state, giving the reason for that placement, or
5 the minor is to be placed with a relative within the third
6 degree or with a stepparent, or the minor is a special needs
7 child, as defined in s. 409.166, or for other good cause
8 shown, an adoption entity may not:

9 (a) Take or send a minor out of the state for the
10 purpose of placement for adoption; or

11 (b) Place or attempt to place a minor for the purpose
12 of adoption with a family who primarily lives and works
13 outside Florida in another state. If an adoption entity is
14 acting under this subsection, the adoption entity must file a
15 petition for declaratory statement pursuant to s. 63.102 for
16 prior approval of fees and costs. The court shall review the
17 costs pursuant to s. 63.097. The petition for declaratory
18 statement must be converted to a petition for an adoption upon
19 placement of the minor in the home. When a minor is placed for
20 adoption with prospective adoptive parents who primarily live
21 and work outside of Florida, the circuit court in this state
22 may ~~must~~ retain jurisdiction over the matter until the
23 adoption becomes final. The prospective adoptive parents may
24 finalize the adoption in this state ~~must come to this state to~~
25 ~~have the adoption finalized. Violation of the order subjects~~
26 ~~the adoption entity to contempt of court and to the penalties~~
27 ~~provided in s. 63.212.~~

28 Section 35. Subsections (1), (4), (7), and (8) of
29 section 63.212, Florida Statutes, are amended to read:

30 63.212 Prohibited acts; penalties for violation~~+~~
31 ~~preplanned adoption agreement.--~~

1 (1) It is unlawful for any person:

2 (a) To place or attempt to place a minor for adoption
3 with a person who primarily lives and works outside this state
4 unless all of the requirements of the Interstate Compact for
5 the Placement of Children, when applicable, have been met
6 ~~unless the minor is placed with a relative within the third~~
7 ~~degree or with a stepparent. This requirement does not apply~~
8 ~~if the minor is placed by an adoption entity in accordance~~
9 ~~with s. 63.207.~~

10 (b) Except an adoption entity, to place or attempt to
11 place within the state a minor for adoption unless the minor
12 is placed with a relative as defined in this chapter ~~within~~
13 ~~the third degree~~ or with a stepparent. This prohibition,
14 however, does not apply to a person who is placing or
15 attempting to place a minor for the purpose of adoption with
16 the adoption entity.

17 (c) To sell or surrender, or to arrange for the sale
18 or surrender of, a minor to another person for money or
19 anything of value or to receive such minor child for such
20 payment or thing of value. If a minor is being adopted by a
21 relative ~~within the third degree~~ or by a stepparent, or is
22 being adopted through an adoption entity, this paragraph does
23 not prohibit the person who is contemplating adopting the
24 child from paying, under ss. 63.097 and 63.132, the actual
25 prenatal care and living expenses of the mother of the child
26 to be adopted, or from paying, under ss. 63.097 and 63.132,
27 the actual living and medical expenses of such mother for a
28 reasonable time, not to exceed 6 weeks, if medical needs
29 require such support, after the birth of the minor.

30 (d) Having the rights and duties of a parent with
31 respect to the care and custody of a minor to assign or

1 transfer such parental rights for the purpose of, incidental
2 to, or otherwise connected with, selling or offering to sell
3 such rights and duties.

4 (e) To assist in the commission of any act prohibited
5 in paragraphs (a)-(d). In the case of a stepparent adoption,
6 this paragraph does not preclude the forgiveness of vested
7 child support arrearages owed by a parent.

8 (f) Except an adoption entity, to charge or accept any
9 fee or compensation of any nature from anyone for making a
10 referral in connection with an adoption.

11 (g) Except an adoption entity, to advertise or offer
12 to the public, in any way, by any medium whatever that a minor
13 is available for adoption or that a minor is sought for
14 adoption; and, further, it is unlawful for any person to
15 publish or broadcast any such advertisement without including
16 a Florida license number of the agency or attorney placing the
17 advertisement.

18 (h) To contract for the purchase, sale, or transfer of
19 custody or parental rights in connection with any child, in
20 connection with any fetus yet unborn, or in connection with
21 any fetus identified in any way but not yet conceived, in
22 return for any valuable consideration. Any such contract is
23 void and unenforceable as against the public policy of this
24 state. However, fees, costs, and other incidental payments
25 made in accordance with statutory provisions for adoption,
26 foster care, and child welfare are permitted, and a person may
27 agree to pay expenses in connection with a preplanned adoption
28 agreement as specified below, but the payment of such expenses
29 may not be conditioned upon the transfer of parental rights.
30 Each petition for adoption which is filed in connection with a
31 preplanned adoption agreement must clearly identify the

1 adoption as a preplanned adoption arrangement and must include
2 a copy of the preplanned adoption agreement for review by the
3 court.

4 ~~1. Individuals may enter into a preplanned adoption~~
5 ~~arrangement as specified herein, but such arrangement shall~~
6 ~~not in any way:~~

7 ~~a. Effect final transfer of custody of a child or~~
8 ~~final adoption of a child, without review and approval of the~~
9 ~~department and the court, and without compliance with other~~
10 ~~applicable provisions of law.~~

11 ~~b. Constitute consent of a mother to place her child~~
12 ~~for adoption until 7 days following birth, and unless the~~
13 ~~court making the custody determination or approving the~~
14 ~~adoption determines that the mother was aware of her right to~~
15 ~~rescind within the 7-day period following birth but chose not~~
16 ~~to rescind such consent.~~

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

20 ~~a. That the volunteer mother agrees to become pregnant~~
21 ~~by the fertility technique specified in the agreement, to bear~~
22 ~~the child, and to terminate any parental rights and~~
23 ~~responsibilities to the child she might have through a written~~
24 ~~consent executed at the same time as the preplanned adoption~~
25 ~~agreement, subject to a right of rescission by the volunteer~~
26 ~~mother any time within 7 days after the birth of the child.~~

27 ~~b. That the volunteer mother agrees to submit to~~
28 ~~reasonable medical evaluation and treatment and to adhere to~~
29 ~~reasonable medical instructions about her prenatal health.~~

30 ~~c. That the volunteer mother acknowledges that she is~~
31 ~~aware that she will assume parental rights and~~

1 ~~responsibilities for the child born to her as otherwise~~
2 ~~provided by law for a mother, if the intended father and~~
3 ~~intended mother terminate the agreement before final transfer~~
4 ~~of custody is completed, or if a court determines that a~~
5 ~~parent clearly specified by the preplanned adoption agreement~~
6 ~~to be the biological parent is not the biological parent, or~~
7 ~~if the preplanned adoption is not approved by the court~~
8 ~~pursuant to the Florida Adoption Act.~~

9 ~~d. That an intended father who is also the biological~~
10 ~~father acknowledges that he is aware that he will assume~~
11 ~~parental rights and responsibilities for the child as~~
12 ~~otherwise provided by law for a father, if the agreement is~~
13 ~~terminated for any reason by any party before final transfer~~
14 ~~of custody is completed or if the planned adoption is not~~
15 ~~approved by the court pursuant to the Florida Adoption Act.~~

16 ~~e. That the intended father and intended mother~~
17 ~~acknowledge that they may not receive custody or the parental~~
18 ~~rights under the agreement if the volunteer mother terminates~~
19 ~~the agreement or if the volunteer mother rescinds her consent~~
20 ~~to place her child for adoption within 7 days after birth.~~

21 ~~f. That the intended father and intended mother may~~
22 ~~agree to pay all reasonable legal, medical, psychological, or~~
23 ~~psychiatric expenses of the volunteer mother related to the~~
24 ~~preplanned adoption arrangement, and may agree to pay the~~
25 ~~reasonable living expenses of the volunteer mother. No other~~
26 ~~compensation, whether in cash or in kind, shall be made~~
27 ~~pursuant to a preplanned adoption arrangement.~~

28 ~~g. That the intended father and intended mother agree~~
29 ~~to accept custody of and to assert full parental rights and~~
30 ~~responsibilities for the child immediately upon the child's~~
31 ~~birth, regardless of any impairment to the child.~~

1 ~~h. That the intended father and intended mother shall~~
2 ~~have the right to specify the blood and tissue typing tests to~~
3 ~~be performed if the agreement specifies that at least one of~~
4 ~~them is intended to be the biological parent of the child.~~

5 ~~i. That the agreement may be terminated at any time by~~
6 ~~any of the parties.~~

7 ~~3. A preplanned adoption agreement shall not contain~~
8 ~~any provision.~~

9 ~~a. To reduce any amount paid to the volunteer mother~~
10 ~~if the child is stillborn or is born alive but impaired, or to~~
11 ~~provide for the payment of a supplement or bonus for any~~
12 ~~reason.~~

13 ~~b. Requiring the termination of the volunteer mother's~~
14 ~~pregnancy.~~

15 ~~4. An attorney who represents an intended father and~~
16 ~~intended mother or any other attorney with whom that attorney~~
17 ~~is associated shall not represent simultaneously a female who~~
18 ~~is or proposes to be a volunteer mother in any matter relating~~
19 ~~to a preplanned adoption agreement or preplanned adoption~~
20 ~~arrangement.~~

21 ~~5. Payment to agents, finders, and intermediaries,~~
22 ~~including attorneys and physicians, as a finder's fee for~~
23 ~~finding volunteer mothers or matching a volunteer mother and~~
24 ~~intended father and intended mother is prohibited. Doctors,~~
25 ~~psychologists, attorneys, and other professionals may receive~~
26 ~~reasonable compensation for their professional services, such~~
27 ~~as providing medical services and procedures, legal advice in~~
28 ~~structuring and negotiating a preplanned adoption agreement,~~
29 ~~or counseling.~~

30 ~~6. As used in this paragraph, the term:~~
31

1 a. ~~"Blood and tissue typing tests" include, but are~~
2 ~~not limited to, tests of red cell antigens, red cell~~
3 ~~isoenzymes, human leukocyte antigens, and serum proteins.~~

4 b. ~~"Child" means the child or children conceived by~~
5 ~~means of an insemination that is part of a preplanned adoption~~
6 ~~arrangement.~~

7 c. ~~"Fertility technique" means artificial~~
8 ~~embryonation, artificial insemination, whether in vivo or in~~
9 ~~vitro, egg donation, or embryo adoption.~~

10 d. ~~"Intended father" means a male who, as evidenced by~~
11 ~~a preplanned adoption agreement, intends to have the parental~~
12 ~~rights and responsibilities for a child conceived through a~~
13 ~~fertility technique, regardless of whether the child is~~
14 ~~biologically related to the male.~~

15 e. ~~"Intended mother" means a female who, as evidenced~~
16 ~~by a preplanned adoption agreement, intends to have the~~
17 ~~parental rights and responsibilities for a child conceived~~
18 ~~through a fertility technique, regardless of whether the child~~
19 ~~is biologically related to the female.~~

20 f. ~~"Parties" means the intended father and intended~~
21 ~~mother, the volunteer mother and her husband, if she has a~~
22 ~~husband, who are all parties to the preplanned adoption~~
23 ~~agreement.~~

24 g. ~~"Preplanned adoption agreement" means a written~~
25 ~~agreement among the parties that specifies the intent of the~~
26 ~~parties as to their rights and responsibilities in the~~
27 ~~preplanned adoption arrangement, consistent with the~~
28 ~~provisions of this act.~~

29 h. ~~"Preplanned adoption arrangement" means the~~
30 ~~arrangement through which the parties enter into an agreement~~
31 ~~for the volunteer mother to bear the child, for payment by the~~

1 ~~intended father and intended mother of the expenses allowed by~~
2 ~~this act, for the intended father and intended mother to~~
3 ~~assert full parental rights and responsibilities to the child~~
4 ~~if consent to adoption is not rescinded after birth by the~~
5 ~~volunteer mother, and for the volunteer mother to terminate,~~
6 ~~subject to a right of rescission, in favor of the intended~~
7 ~~father and intended mother all her parental rights and~~
8 ~~responsibilities to the child.~~

9 i. ~~"Volunteer mother" means a female person at least~~
10 ~~18 years of age who voluntarily agrees, subject to a right of~~
11 ~~rescission, that if she should become pregnant pursuant to a~~
12 ~~preplanned adoption arrangement, she will terminate in favor~~
13 ~~of the intended father and intended mother her parental rights~~
14 ~~and responsibilities to the child.~~

15 (4) It is unlawful for any adoption entity to fail to
16 report to the court, within a reasonable time period ~~prior to~~
17 ~~placement~~, the intended placement of a minor for purposes of
18 adoption with any person not a stepparent or a relative ~~within~~
19 ~~the third degree~~, if the adoption entity participates in such
20 intended placement.

21 (7) It is unlawful for any adoption entity to obtain a
22 preliminary home study or final home investigation and fail to
23 disclose the existence of the study or investigation to the
24 court when required by law to do so.

25 (8) Unless otherwise indicated, a person who willfully
26 and with criminal intent violates any provision of this
27 section, excluding paragraph (1)(g), commits a felony of the
28 third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084. A person who willfully and with
30 criminal intent violates paragraph (1)(g) commits a
31 misdemeanor of the second degree, punishable as provided in s.

1 775.083; and each day of continuing violation shall be
2 considered a separate offense.

3 Section 36. Section 63.213, Florida Statutes, is
4 created to read:

5 63.213 Preplanned adoption agreement.--

6 (1) Individuals may enter into a preplanned adoption
7 arrangement as specified in this section, but such arrangement
8 may not in any way:

9 (a) Effect final transfer of custody of a child or
10 final adoption of a child, without review and approval of the
11 court, and without compliance with other applicable provisions
12 of law.

13 (b) Constitute consent of a mother to place her child
14 for adoption until 48 hours following birth, and unless the
15 court making the custody determination or approving the
16 adoption determines that the mother was aware of her right to
17 rescind within the 48-hour period following birth but chose
18 not to rescind such consent.

19 (2) A preplanned adoption agreement must include, but
20 need not be limited to, the following terms:

21 (a) That the volunteer mother agrees to become
22 pregnant by the fertility technique specified in the
23 agreement, to bear the child, and to terminate any parental
24 rights and responsibilities to the child she might have
25 through a written consent executed at the same time as the
26 preplanned adoption agreement, subject to a right of
27 rescission by the volunteer mother any time within 48 hours
28 after the birth of the child.

29 (b) That the volunteer mother agrees to submit to
30 reasonable medical evaluation and treatment and to adhere to
31 reasonable medical instructions about her prenatal health.

1 (c) That the volunteer mother acknowledges that she is
2 aware that she will assume parental rights and
3 responsibilities for the child born to her as otherwise
4 provided by law for a mother, if the intended father and
5 intended mother terminate the agreement before final transfer
6 of custody is completed, or if a court determines that a
7 parent clearly specified by the preplanned adoption agreement
8 to be the biological parent is not the biological parent, or
9 if the preplanned adoption is not approved by the court
10 pursuant to the Florida Adoption Act.

11 (d) That an intended father who is also the biological
12 father acknowledges that he is aware that he will assume
13 parental rights and responsibilities for the child as
14 otherwise provided by law for a father, if the agreement is
15 terminated for any reason by any party before final transfer
16 of custody is completed or if the planned adoption is not
17 approved by the court pursuant to the Florida Adoption Act.

18 (e) That the intended father and intended mother
19 acknowledge that they may not receive custody or the parental
20 rights under the agreement if the volunteer mother terminates
21 the agreement or if the volunteer mother rescinds her consent
22 to place her child for adoption within 48 hours after birth.

23 (f) That the intended father and intended mother may
24 agree to pay all reasonable legal, medical, psychological, or
25 psychiatric expenses of the volunteer mother related to the
26 preplanned adoption arrangement, and may agree to pay the
27 reasonable living expenses and wages lost due to the pregnancy
28 and birth of the volunteer mother and reasonable compensation
29 for inconvenience, discomfort, and medical risk. No other
30 compensation, whether in cash or in kind, shall be made
31 pursuant to a preplanned adoption arrangement.

1 (g) That the intended father and intended mother agree
2 to accept custody of and to assert full parental rights and
3 responsibilities for the child immediately upon the child's
4 birth, regardless of any impairment to the child.

5 (h) That the intended father and intended mother shall
6 have the right to specify the blood and tissue typing tests to
7 be performed if the agreement specifies that at least one of
8 them is intended to be the biological parent of the child.

9 (i) That the agreement may be terminated at any time
10 by any of the parties.

11 (3) A preplanned adoption agreement shall not contain
12 any provision:

13 (a) To reduce any amount paid to the volunteer mother
14 if the child is stillborn or is born alive but impaired, or to
15 provide for the payment of a supplement or bonus for any
16 reason.

17 (b) Requiring the termination of the volunteer
18 mother's pregnancy.

19 (4) An attorney who represents an intended father and
20 intended mother or any other attorney with whom that attorney
21 is associated shall not represent simultaneously a female who
22 is or proposes to be a volunteer mother in any matter relating
23 to a preplanned adoption agreement or preplanned adoption
24 arrangement.

25 (5) Payment to agents, finders, and intermediaries,
26 including attorneys and physicians, as a finder's fee for
27 finding volunteer mothers or matching a volunteer mother and
28 intended father and intended mother is prohibited. Doctors,
29 psychologists, attorneys, and other professionals may receive
30 reasonable compensation for their professional services, such
31 as providing medical services and procedures, legal advice in

1 structuring and negotiating a preplanned adoption agreement,
2 or counseling.

3 (6) As used in this paragraph, the term:

4 (a) "Blood and tissue typing tests" include, but are
5 not limited to, tests of red cell antigens, red cell
6 isoenzymes, human leukocyte antigens, and serum proteins.

7 (b) "Child" means the child or children conceived by
8 means of an insemination that is part of a preplanned adoption
9 arrangement.

10 (c) "Fertility technique" means artificial
11 embryonation, artificial insemination, whether in vivo or in
12 vitro, egg donation, or embryo adoption.

13 (d) "Intended father" means a male who, as evidenced
14 by a preplanned adoption agreement, intends to have the
15 parental rights and responsibilities for a child conceived
16 through a fertility technique, regardless of whether the child
17 is biologically related to the male.

18 (e) "Intended mother" means a female who, as evidenced
19 by a preplanned adoption agreement, intends to have the
20 parental rights and responsibilities for a child conceived
21 through a fertility technique, regardless of whether the child
22 is biologically related to the female.

23 (f) "Parties" means the intended father and intended
24 mother, the volunteer mother and her husband, if she has a
25 husband, who are all parties to the preplanned adoption
26 agreement.

27 (g) "Preplanned adoption agreement" means a written
28 agreement among the parties that specifies the intent of the
29 parties as to their rights and responsibilities in the
30 preplanned adoption arrangement, consistent with the
31 provisions of this act.

1 (h) "Preplanned adoption arrangement" means the
2 arrangement through which the parties enter into an agreement
3 for the volunteer mother to bear the child, for payment by the
4 intended father and intended mother of the expenses allowed by
5 this act, for the intended father and intended mother to
6 assert full parental rights and responsibilities to the child
7 if consent to adoption is not rescinded after birth by the
8 volunteer mother, and for the volunteer mother to terminate,
9 subject to a right of rescission, in favor of the intended
10 father and intended mother all her parental rights and
11 responsibilities to the child.

12 (i) "Volunteer mother" means a female person at least
13 18 years of age who voluntarily agrees, subject to a right of
14 rescission, that if she should become pregnant pursuant to a
15 preplanned adoption arrangement, she will terminate in favor
16 of the intended father and intended mother her parental rights
17 and responsibilities to the child.

18 Section 37. Section 63.219, Florida Statutes, is
19 amended to read:

20 63.219 Sanctions.--Upon a finding by the court that an
21 adoption entity has willfully violated any substantive
22 provision of this chapter relative to the rights of the
23 parties to the adoption and legality of the adoption process,
24 the court is authorized to prohibit the adoption entity from
25 placing a minor for adoption in the future in this state.

26 Section 38. Section 63.235, Florida Statutes, is
27 amended to read:

28 63.235 Petitions filed before October 1, 2003 ~~2001~~;
29 governing law.--Any petition for adoption filed before October
30 1, 2003 ~~2001~~, shall be governed by the law in effect at the
31 time the petition was filed.

1 Section 39. This act shall take effect October 1,
2 2003.

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4 *****

5 SENATE SUMMARY

6 Revises laws governing adoption. Defines the term
7 "unmarried biological father." Revises requirements for
8 the Department of Children and Family Services with
9 respect to the placement of children. Establishes the
10 Florida Putative Father Registry within the Office of
11 Vital Statistics of the Department of Health. Provides a
12 procedure for an unmarried biological father to register.
13 Specifies circumstances under which an unmarried
14 biological father must consent to the adoption of the
15 child. Requires a search of the Florida Putative Father
16 Registry prior to the adoption of a child under certain
17 circumstances. Revises requirements for providing consent
18 to an adoption and revises the forms used in obtaining
19 consent. Requires that a motion to contest a judgment
20 terminating parental right be filed within 1 year after
21 the entry of judgment rather than 2 years after the
22 judgment. (See bill for details.)

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