

By the Committee on Judiciary; and Senators Lynn, Campbell and Bennett

308-2382-03

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 terms  
14          "unmarried biological father" and "adoption  
15          plan"; amending s. 63.039, F.S.; providing for  
16          an award of certain fees and costs in the event  
17          of fraud or duress at the discretion of the  
18          court; requiring that certain court findings of  
19          sanctionable conduct be forwarded to the Office  
20          of the Attorney General; amending s. 63.042,  
21          F.S.; revising provisions specifying who may  
22          adopt; amending s. 63.0423, F.S.; revising  
23          references to newborn infants; authorizing a  
24          child-placing agency to remove an abandoned  
25          infant from a placement under certain  
26          circumstances; revising requirements for  
27          conducting a diligent search to identify a  
28          parent of an abandoned infant; revising certain  
29          requirements for the court; revising time  
30          periods for providing notice of certain  
31          actions; revising the period within which a

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

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

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

1           revising requirements for issuing and voiding a  
2           judgment terminating parental rights; amending  
3           s. 63.092, F.S.; revising requirements for  
4           placing of a minor by an adoption entity;  
5           revising requirements for a preliminary home  
6           study; amending s. 63.097, F.S.; revising the  
7           fees, costs, and expenses that may be assessed  
8           by an adoption entity; revising the total of  
9           the fees, costs, and expenses for which court  
10          approval is required; prohibiting certain fees,  
11          costs, and expenses; amending s. 63.102, F.S.;  
12          revising the period within which a petition for  
13          adoption may be filed; providing for exceptions  
14          for adoptions of adults and adoptions by  
15          stepparents and relatives; revising  
16          requirements pertaining to prior approval of  
17          fees and costs; providing for the clerk of the  
18          court to charge one filing fee for certain  
19          adoption-related actions; amending s. 63.112,  
20          F.S.; revising requirements for the petition  
21          documents for an adoption; amending s. 63.122,  
22          F.S.; providing requirements for the notice of  
23          the hearing on the petition for adoption;  
24          amending s. 63.125, F.S.; revising the period  
25          within which a home investigation report must  
26          be filed; amending s. 63.132, F.S.; revising  
27          the period within which an affidavit of  
28          expenses and receipts must be filed; revising  
29          requirements for the affidavit of expenses and  
30          receipts; providing an exception for the  
31          adoption of a relative or an adult; amending s.

1           63.135, F.S.; requiring that certain  
2           information be provided to the court for all  
3           adoption proceedings; amending s. 63.142, F.S.;  
4           allowing persons to appear before the court  
5           telephonically; revising conditions under which  
6           a judgment terminating parental rights is  
7           voidable; revising requirements pertaining to  
8           the court's consideration of setting aside a  
9           judgment terminating parental rights; amending  
10          s. 63.152, F.S.; revising the entities  
11          responsible for preparing a statement of the  
12          adoption for the state registrar of vital  
13          statistics; requiring the clerk of the court to  
14          transmit the statement of the adoption to the  
15          state registrar; amending s. 63.162, F.S.;  
16          revising certain notice requirements concerning  
17          the disclosure of information pertaining to an  
18          adoption; amending s. 63.167, F.S.; authorizing  
19          the department to contract with more than one  
20          child-placing agency for the operation of a  
21          state adoption information center; amending s.  
22          63.182, F.S.; revising the statute of repose to  
23          conform to changes made by the act; repealing  
24          s. 63.185, F.S., relating to the residency  
25          requirement for adoptions; amending s. 63.207,  
26          F.S.; providing for the court's jurisdiction  
27          with respect to out-of-state placements;  
28          amending s. 63.212, F.S.; requiring an  
29          out-of-state adoption to be in compliance with  
30          the Interstate Compact for the Placement of  
31          Children when applicable; deleting certain

1 provisions concerning preplanned adoption  
2 agreements; revising acts that are unlawful  
3 pertaining to adoptions; creating s. 63.213,  
4 F.S.; providing requirements for a preplanned  
5 adoption arrangement; providing definitions;  
6 amending s. 63.219, F.S.; revising conditions  
7 under which the court may sanction an adoption  
8 entity; amending s. 63.235, F.S.; providing  
9 application; providing an effective date.

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

12

13 Section 1. Section 63.022, Florida Statutes, is  
14 amended to read:

15 63.022 Legislative intent.--

16 (1) The Legislature finds that:

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

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

28 (c) Adoptive children have the right to permanence and  
29 stability in adoptive placements.

30 (d) Adoptive parents have a constitutional privacy  
31 interest in retaining custody of a legally adopted child.

1           (e) An unmarried biological father has an inchoate  
2 interest that acquires constitutional protection only when he  
3 demonstrates a timely and full commitment to the  
4 responsibilities of parenthood, both during the pregnancy and  
5 after the child's birth. The state has a compelling interest  
6 in requiring an unmarried biological father to demonstrate  
7 that commitment by providing appropriate medical care and  
8 financial support and by establishing legal paternity rights  
9 in accordance with the requirements of this chapter.

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

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

20           (4)~~(2)~~ The basic safeguards intended to be provided by  
21 this chapter are that:

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

25           (b) The required persons consent to the adoption or  
26 the parent-child relationship is terminated by judgment of the  
27 court.

28           (c) The required social studies are completed and the  
29 court considers the reports of these studies prior to judgment  
30 on adoption petitions.

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

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

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

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

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

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

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

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

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

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

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

20           Section 2. Section 63.032, Florida Statutes, is  
21 amended to read:

22           63.032 Definitions.--As used in this chapter, the  
23 term:

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

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

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

12 (3) "Adoption entity" means the department, an agency,  
13 a child-caring agency registered under s. 409.176, ~~or~~ an  
14 intermediary, or a child-placing agency licensed in another  
15 state which is qualified by the department to place children  
16 in the State of Florida.

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

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

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

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

26 (8) "Department" means the Department of Children and  
27 Family Services.

28 (9) "Intermediary" means an attorney who is licensed  
29 or authorized to practice in this state and who is placing or  
30 intends to place a child for adoption, including placing ~~or,~~  
31 ~~for the purpose of adoptive placements of children~~ born in

1 another from out of state with citizens of this state or  
2 country or placing children born in this state with citizens  
3 of another state or country, a child-placing agency licensed  
4 ~~in another state that is qualified by the department.~~

5 (10) "Legal custody" has the meaning ascribed in s.  
6 39.01.

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

8 (12) "Parent" has the same meaning ascribed in s.  
9 39.01.

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

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

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

22 (16) "Placement" means the process of a parent or  
23 legal guardian surrendering a child for adoption and the  
24 prospective adoptive parents receiving and adopting the child  
25 and all actions by any adoption entity participating in  
26 placing the child.

27 ~~(17)~~ (16) "Primarily lives and works outside Florida"  
28 ~~means anyone who does not meet the definition of "primary~~  
29 ~~residence and place of employment in Florida."~~

30 ~~(17)~~ "Primary residence and place of employment in  
31 Florida" means a person who lives and works outside in this

1 state at least 6 months of the year, ~~and intends to do so for~~  
2 ~~the foreseeable future or~~ military personnel who designate  
3 Florida as their place of residence in accordance with the  
4 Soldiers' and Sailors' Civil Relief Act of 1940, ~~or~~ employees  
5 of the United States Department of State living in a foreign  
6 country who designate a state other than Florida as their  
7 place of residence.

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

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

21 (20) "Adoption plan means arrangements made by a birth  
22 parent or other individual having a legal right to custody of  
23 a minor child, born or to be born, with an adoption entity in  
24 furtherance of the placement of the minor for adoption.

25 Section 3. Section 63.039, Florida Statutes, is  
26 amended to read:

27 63.039 Duty of adoption entity to prospective adoptive  
28 parents; sanctions.--

29 (1) An adoption entity placing a minor for adoption  
30 has an affirmative duty to follow the requirements of this  
31 chapter and specifically the following provisions, which

1 protect and promote the well-being of persons being adopted  
2 and their parents and prospective adoptive parents by  
3 promoting certainty, finality, and permanency for such  
4 persons. The adoption entity must:

5 (a) Provide written initial disclosure to the  
6 prospective adoptive parent at the time and in the manner  
7 required under s. 63.085.

8 (b) Provide written ~~initial and postbirth~~ disclosure  
9 to the parent at the time and in the manner required under s.  
10 63.085.

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

14 (d) When a written consent or affidavit of  
15 nonpaternity for adoption is obtained, obtain a consent to  
16 adoption or affidavit of nonpaternity that contains the  
17 language required under s. 63.062 or s. 63.082.

18 (e) Include in the petition to terminate parental  
19 rights pending adoption all information required under s.  
20 63.087~~(6)(e) and (f)~~.

21 (f) Obtain and file the affidavit of inquiry pursuant  
22 to s. 63.088~~(4)(3)~~, if the required inquiry is not conducted  
23 orally in the presence of the court.

24 (g) When the identity of a person whose consent to  
25 adoption is necessary under this chapter is known but the  
26 location of such a person is unknown, conduct the diligent  
27 search and file the affidavit required under s. 63.088~~(5)(4)~~.

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

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

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

27           (3) The prevailing party ~~If a person whose consent to~~  
28 ~~an adoption is required under s. 63.062 prevails in an action~~  
29 to set aside a judgment terminating parental rights pending  
30 adoption, or a judgment of adoption may be awarded, ~~the court~~  
31 ~~must award~~ reasonable attorney's fees and costs ~~to the~~

1 ~~prevailing party~~. An award under this subsection must be paid  
2 by the adoption entity or by any applicable insurance carrier  
3 on behalf of the adoption entity if the court finds that the  
4 acts or omissions of the entity were the basis for the court's  
5 order granting relief to the prevailing party.

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

10 (a) The Florida Bar any order that imposes sanctions  
11 under this section against an attorney acting as an adoption  
12 entity.

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

17 (c) The entity under s. 409.176 that certifies  
18 child-caring agencies any order that imposes sanctions under  
19 this section against a child-caring agency registered under s.  
20 409.176.

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

23 Section 4. Section 63.042, Florida Statutes, is  
24 amended to read:

25 63.042 Who may be adopted; who may adopt.--

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

27 (2) The following persons may adopt:

28 (a) A husband and wife jointly;

29 (b) An unmarried adult, ~~including the birth parent of~~  
30 ~~the person to be adopted;~~

31



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

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

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

8           2. The failure of the other spouse to join in the  
9 petition or to consent to the adoption is excused by the court  
10 for good cause shown or in the best interest of the child ~~for~~  
11 ~~reason of prolonged unexplained absence, unavailability,~~  
12 ~~incapacity, or circumstances constituting an unreasonable~~  
13 ~~withholding of consent.~~

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

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

22           Section 5. Section 63.0423, Florida Statutes, is  
23 amended to read:

24           63.0423 Procedures with respect to abandoned infants  
25 ~~newborns.--~~

26           (1) A licensed child-placing agency that takes  
27 physical custody of an ~~a newborn~~ infant abandoned left at a  
28 hospital, emergency medical services station, or fire station  
29 pursuant to s. 383.50, shall assume responsibility for all  
30 medical costs and all other costs associated with the  
31 emergency services and care of the abandoned ~~newborn~~ infant

1 from the time the licensed child-placing agency takes physical  
2 custody of the abandoned newborn infant.

3 (2) The licensed child-placing agency shall  
4 immediately seek an order from the circuit court for emergency  
5 custody of the abandoned newborn infant. The emergency custody  
6 order shall remain in effect until the court orders  
7 preliminary approval of placement of the abandoned newborn  
8 infant in the prospective home, at which time the prospective  
9 adoptive parents become guardians pending termination of  
10 parental rights and finalization of adoption or until the  
11 court orders otherwise. The guardianship of the prospective  
12 adoptive parents shall remain subject to the right of the  
13 licensed child-placing agency to remove the abandoned infant  
14 from the placement during the pendency of the proceedings if  
15 such removal is deemed by the licensed child-placing agency to  
16 be in the best interest of the child.The licensed  
17 child-placing agency may immediately seek to ~~temporarily~~ place  
18 the abandoned newborn infant in a prospective adoptive home ~~as~~  
19 ~~soon as possible~~.

20 (3) The licensed child-placing agency that takes  
21 physical custody of the abandoned newborn infant shall, within  
22 24 hours thereafter,~~immediately~~ request assistance from law  
23 enforcement officials to investigate and determine, through  
24 the Missing Children Information Clearinghouse, the National  
25 Center for Missing and Exploited Children, and any other  
26 national and state resources, whether or not the abandoned  
27 ~~newborn~~ infant is a missing child.

28 (4) Within 7 days after accepting physical custody of  
29 the abandoned newborn infant, the licensed child-placing  
30 agency shall initiate a diligent search to notify and to  
31 obtain consent from a parent whose identity is known but whose

1 ~~location is unknown or location is unknown, other than the~~  
2 ~~parent who has left a newborn infant at a hospital, emergency~~  
3 ~~medical services station, or fire station in accordance with~~  
4 ~~s. 383.50. The diligent search must include, at a minimum,~~  
5 ~~inquiries as provided for in s. 63.088 of all known relatives~~  
6 ~~of the parent, inquiries of all offices or program areas of~~  
7 ~~the department likely to have information about the parent,~~  
8 ~~inquiries of other state and federal agencies likely to have~~  
9 ~~information about the parent, inquiries of appropriate utility~~  
10 ~~and postal providers, and inquiries of appropriate law~~  
11 ~~enforcement agencies. Constructive notice must also be~~  
12 ~~provided pursuant to chapter 49 in the county where the~~  
13 ~~newborn infant was abandoned left and in the county where the~~  
14 ~~petition to terminate parental rights will be filed. The~~  
15 ~~constructive notice must include at a minimum, available~~  
16 ~~identifying information, and information on whom a parent must~~  
17 ~~contact in order to assert a claim of parental rights of the~~  
18 ~~newborn infant and how to assert that claim. If a parent is~~  
19 ~~identified and located, notice of the adjudicatory hearing on~~  
20 ~~the petition for termination of parental rights shall be~~  
21 ~~provided. If a parent cannot be identified or located~~  
22 ~~subsequent to the diligent search and constructive notice, the~~  
23 ~~licensed child-placing agency shall file an affidavit of~~  
24 ~~diligent search at the same time that the petition to~~  
25 ~~terminate parental rights is filed.~~

26 (5) A petition for termination of parental rights  
27 under this section may not be filed until 30 days after the  
28 date the newborn infant was abandoned left in accordance with  
29 s. 383.50. A petition for termination of parental rights may  
30 not be granted until consent to adoption or an affidavit of  
31 nonpaternity has been executed by a parent of the abandoned

1 ~~newborn~~ infant as set forth in s. 63.062, a parent has failed  
2 to reclaim or claim the abandoned ~~newborn~~ infant within the  
3 ~~specified~~ time period specified in s. 383.50, or the consent  
4 of a parent is otherwise waived by the court.

5 (6) A claim of parental rights of the abandoned  
6 ~~newborn~~ infant must be made to the entity having ~~physical or~~  
7 legal custody of the abandoned ~~newborn~~ infant or to the  
8 circuit court before whom proceedings involving the abandoned  
9 ~~newborn~~ infant are pending. A claim of parental rights of the  
10 abandoned ~~newborn~~ infant may not be made after the judgment to  
11 terminate parental rights is entered, except as otherwise  
12 provided by subsection (9) ~~(10)~~.

13 (7) If a claim of parental rights of an abandoned ~~a~~  
14 ~~newborn~~ infant is made before the judgment to terminate  
15 parental rights is entered, the circuit court may ~~shall~~ hold  
16 the action for termination of parental rights pending  
17 subsequent adoption in abeyance for a period of time not to  
18 exceed 60 days.

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

23 (b) The court shall ~~may~~ appoint a guardian ad litem  
24 for the abandoned ~~newborn~~ infant and order whatever  
25 investigation, home evaluation, and psychological evaluation  
26 are necessary to determine what is in the best interest of the  
27 abandoned ~~newborn~~ infant.

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

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

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

8 (9)(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 the motion of a birth parent,  
11 the court finds that a person knowingly gave false information  
12 that prevented the birth parent from timely making known his  
13 or her desire to assume parental responsibilities toward the  
14 minor or from exercising his or her parental rights. A motion  
15 under this subsection must be filed with the court originally  
16 entering the judgment. The motion must be filed within a  
17 reasonable time, but not later than 1 year ~~2 years~~ after the  
18 entry of the judgment terminating parental rights.

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

31

1           (c) At the preliminary hearing, the court, upon the  
2 motion of any party or upon its own motion, may order  
3 scientific testing to determine the paternity or maternity of  
4 the minor if the person seeking to set aside the judgment is  
5 alleging to be the child's birth parent ~~but and that fact~~ has  
6 not previously been determined by legal proceedings or  
7 scientific testing to be the birth parent. Upon the filing of  
8 test results establishing that person's maternity or paternity  
9 of the abandoned infant, the court may order ~~supervised~~  
10 visitation as it deems appropriate and in the best interest of  
11 the child ~~with a person for whom scientific testing for~~  
12 ~~paternity or maternity has been ordered~~. Such visitation shall  
13 ~~be conditioned upon the filing of test results with the court~~  
14 ~~and those results establishing that person's paternity or~~  
15 ~~maternity of the minor~~.

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

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

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

28           63.0425 Grandparent's right to adopt.--

29           (1) When a child ~~who~~ has lived with a grandparent for  
30 at least 6 months within the 24-month period immediately  
31 preceding the filing of a petition for termination of parental

1 ~~rights pending adoption is placed for adoption~~, the adoption  
2 entity ~~handling the adoption~~ shall provide notice to notify  
3 that grandparent of the hearing on the petition for  
4 termination of parental rights pending adoption impending  
5 ~~adoption before the petition for adoption is filed. If the~~  
6 ~~grandparent petitions the court to adopt the child, the court~~  
7 ~~shall give first priority for adoption to that grandparent.~~

8 Section 7. Section 63.0427, Florida Statutes, is  
9 amended to read:

10 63.0427 Adopted minor's right to continued  
11 communication or contact with siblings and other relatives.--

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

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

27 (b) Recommendations of the department, the foster  
28 parents if other than the adoptive parents, and the guardian  
29 ad litem.

30 (c) Statements of the prospective adoptive parents.

31

1 (d) Any other information deemed relevant and material  
2 by the court.

3  
4 If the court determines that the child's best interests  
5 will be served by postadoption communication or contact ~~with~~  
6 ~~any sibling or, upon agreement of the adoptive parents, other~~  
7 ~~specified biological relatives~~, the court shall so order,  
8 stating the nature and frequency for the communication or  
9 contact. This order shall be made a part of the final adoption  
10 order, but in no event shall the continuing validity of the  
11 adoption be contingent upon such postadoption communication or  
12 contact, nor shall the ability of the adoptive parents and  
13 child to change residence within or outside the State of  
14 Florida be impaired by such communication or contact.

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

28 Section 8. Section 63.043, Florida Statutes, is  
29 amended to read:

30 63.043 Mandatory screening or testing for sickle-cell  
31 trait prohibited.--No person, firm, corporation,



1 unincorporated association, state agency, unit of local  
2 government, or any public or private entity shall require  
3 screening or testing for the sickle-cell trait as a condition  
4 ~~for employment, for admission into any state educational~~  
5 ~~institution or state-chartered private educational~~  
6 ~~institution, or for becoming eligible for adoption if~~  
7 otherwise eligible for adoption under the laws of this state.

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

10 63.052 Guardians designated; proof of commitment.--

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

21 (2) For minors who have been voluntarily surrendered  
22 to an intermediary through an execution of a consent to  
23 adoption, the intermediary shall be responsible for the minor  
24 until the time a court orders preliminary approval of  
25 placement of the minor in the prospective adoptive home, after  
26 at which time the prospective adoptive parents shall become  
27 guardians pending finalization of adoption, subject to the  
28 intermediary's right and responsibility to remove the child  
29 from the prospective adoptive home if the removal is deemed by  
30 the intermediary to be in the best interest of the child.  
31 Prior to the court's entry of an order granting preliminary

1 approval of the placement, the intermediary shall have the  
2 responsibility and authority to provide for the needs and  
3 welfare of the minor. ~~Until a court has terminated parental~~  
4 ~~rights pending adoption and has ordered preliminary approval~~  
5 ~~of placement of the minor in the adoptive home, the minor must~~  
6 ~~be placed in the care of a relative as defined in s. 39.01, in~~  
7 ~~foster care as defined in s. 39.01, or in the care of a~~  
8 ~~prospective adoptive home. No minor shall be placed in a~~  
9 ~~prospective adoptive home until that home has received a~~  
10 ~~favorable preliminary home study by a licensed child placing~~  
11 ~~agency, a licensed professional, or an agency, as provided in~~  
12 ~~s. 63.092, within 1 year before such placement in the~~  
13 ~~prospective home. Temporary placement in the prospective home~~  
14 ~~with the prospective adoptive parents does not give rise to a~~  
15 ~~presumption that the parental rights of the parents will~~  
16 ~~subsequently be terminated. For minors who have been placed~~  
17 ~~for adoption with or voluntarily surrendered to an agency, but~~  
18 ~~have not been permanently committed to the agency, the agency~~  
19 ~~shall have the responsibility and authority to provide for the~~  
20 ~~needs and welfare for such minors. For those minors placed~~  
21 ~~for adoption with or voluntarily surrendered to the~~  
22 ~~department, but not permanently committed to the department,~~  
23 ~~the department shall have the responsibility and authority to~~  
24 ~~provide for the needs and welfare for such minors. The~~  
25 ~~adoption entity may authorize all appropriate medical care for~~  
26 ~~a minor who has been placed for adoption with or voluntarily~~  
27 ~~surrendered to the adoption entity. The provisions of s.~~  
28 ~~627.6578 shall remain in effect notwithstanding the~~  
29 ~~guardianship provisions in this section.~~

30 (3) If a minor is surrendered to an adoption entity  
31 intermediary for subsequent adoption and a suitable

1 prospective adoptive home is not available pursuant to s.  
2 63.092 at the time the minor is surrendered to the adoption  
3 entity intermediary or, ~~if the minor is a newborn admitted to~~  
4 ~~a licensed hospital or birth center, at the time the minor is~~  
5 ~~discharged from the hospital or birth center,~~ the minor must  
6 be placed in foster care or with a relative until such a  
7 suitable prospective adoptive home is available.

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

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

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

1           (7) The court retains jurisdiction of a minor who has  
2 been placed for adoption until the adoption is final. After a  
3 minor is placed with an adoption entity or prospective  
4 adoptive parent, the court may review the status of the minor  
5 and the progress toward permanent adoptive placement. ~~As part~~  
6 ~~of this continuing jurisdiction, for good cause shown by a~~  
7 ~~person whose consent to an adoption is required under s.~~  
8 ~~63.062, the adoption entity, the parents, persons having legal~~  
9 ~~custody of the minor, persons with custodial or visitation~~  
10 ~~rights to the minor, persons entitled to notice pursuant to~~  
11 ~~the Uniform Child Custody Jurisdiction Act or the Indian Child~~  
12 ~~Welfare Act, or upon the court's own motion, the court may~~  
13 ~~review the appropriateness of the adoptive placement of the~~  
14 ~~minor.~~

15           Section 10. Section 63.053, Florida Statutes, is  
16 created to read:

17           63.053 Rights and responsibilities of an unmarried  
18 biological father; legislative findings.--

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

29           (2) The Legislature finds that the interests of the  
30 state, the mother, the child, and the adoptive parents  
31 described in this chapter outweigh the interest of an

1 unmarried biological father who does not take action in a  
2 timely manner to establish and demonstrate a relationship with  
3 his child in accordance with the requirements of this chapter.  
4 An unmarried biological father has the primary responsibility  
5 to protect his rights and is presumed to know that his child  
6 may be adopted without his consent unless he complies with the  
7 provisions of this chapter and demonstrates a prompt and full  
8 commitment to his parental responsibilities.

9 (3) The Legislature finds that a birth mother and a  
10 birth father have a right to privacy.

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

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

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

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

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 of the child; and the name, date, and  
16 place of birth of the child or estimated date of birth of the  
17 expected minor child, if known. The claim of paternity form  
18 shall be 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 service of process. The failure of the designated  
29 representative or agent of the registrant to deliver or  
30 otherwise notify the registrant of receipt of correspondence  
31 from the Florida Putative Father Registry is at the

1 registrant's own risk and shall not serve as a valid defense  
2 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. If a court determines that a  
9 registrant is not the father of the minor, the court shall  
10 order the department to remove the registrant s name from the  
11 registry.

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

23 (7) In each proceeding for termination of parental  
24 rights or each adoption proceeding filed under this chapter,  
25 the petitioner must contact the Office of Vital Statistics of  
26 the Department of Health by submitting an application for a  
27 search of the Florida Putative Father Registry. The petitioner  
28 shall provide the same information, if known, on the search  
29 application form which the registrant is required to furnish  
30 under subsection (3). Thereafter, the Office of Vital

31

1 Statistics must issue a certificate signed by the State

2 Registrar certifying:

3 (a) The identity and contact information, if any, for  
4 each registered unmarried biological father whose information  
5 matches the search request sufficiently so that such person  
6 may be considered a possible father of the subject child; or

7 (b) That a diligent search has been made of the  
8 registry of registrants who may be the unmarried biological  
9 father of the subject child and that no matching registration  
10 has been located in the registry.

11 This certificate must be filed with the court in the  
12 proceeding to terminate parental rights or the adoption  
13 proceeding. If a termination of parental rights and an  
14 adoption proceeding are being adjudicated simultaneously, the  
15 Florida Putative Father Registry need only be searched once.

16 (8) If an unmarried biological father does not know  
17 the county in which the birth mother resides, gave birth, or  
18 intends to give birth, he may initiate an action in any county  
19 in the state, subject to the birth mother's right to change  
20 venue to the county where she resides.

21 (9) The Department of Health shall establish and  
22 maintain a Florida Putative Father Registry through its Office  
23 of Vital Statistics, in accordance with the requirements of  
24 this section. The Department of Health may charge a nominal  
25 fee to cover the costs of filing and indexing the Florida  
26 Putative Father Registry and the costs of searching the  
27 registry.

28 (10) The Department of Health shall, within existing  
29 resources, prepare and adopt by rule application forms for  
30 initiating a search of the Florida Putative Father Registry  
31 and shall make those forms available through the local offices



1 of the Department of Health and the Department of Children and  
2 Family Services and the offices of the clerks of the circuit  
3 court.

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

26 (12) The Department of Health shall, within existing  
27 resources, provide additional information about the Florida  
28 Putative Father Registry and its services to the public in  
29 English, Spanish, and Creole using public service  
30 announcements, Internet websites, and such other means as it  
31 deems appropriate.

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

7           (14) The Office of Vital Statistics of the Department  
8 of Health is authorized to adopt rules to implement this  
9 section.

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

12           63.062 Persons required to consent to adoption;  
13 affidavit of nonpaternity; waiver of venue.--

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

20           (a) The mother of the minor.

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

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

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

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

27           4. He has filed an affidavit of paternity pursuant to  
28 s. 382.013(2)(c); or

29           5. In the case of an unmarried biological father, he  
30 has acknowledged in writing, signed in the presence of a  
31 competent witness, that he is the father of the minor, has

1 filed such acknowledgement with the Office of Vital Statistics  
2 of the Department of Health within the required timeframes,  
3 and has complied with the requirements of subsection (2).

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

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

11 ~~1. Has acknowledged in writing, signed in the presence~~  
12 ~~of a competent witness, that he is the father of the minor and~~  
13 ~~has filed such acknowledgment with the Office of Vital~~  
14 ~~Statistics of the Department of Health;~~

15 ~~2. Has provided, or has attempted to provide, the~~  
16 ~~child or the mother during her pregnancy with support in a~~  
17 ~~repetitive, customary manner; or~~

18 ~~3. Has been identified by the birth mother as a person~~  
19 ~~she has reason to believe may be the father of the minor in an~~  
20 ~~action to terminate parental rights pending adoption pursuant~~  
21 ~~to this chapter.~~

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

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

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

1           (d) Any person lawfully entitled to custody of the  
2 minor if required by the court.

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

6           (2) In accordance with subsection (1), the consent of  
7 an unmarried biological father shall be necessary only if the  
8 unmarried biological father has complied with the requirements  
9 of this subsection.

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

20           a. Regularly visited the child at least monthly, when  
21 physically and financially able to do so and when not  
22 prevented from doing so by the birth mother or the person or  
23 authorized agency having lawful custody of the child; or

24           b. Maintained regular communication with the child or  
25 with the person or agency having the care or custody of the  
26 child, when physically or financially unable to visit the  
27 child or when not prevented from doing so by the birth mother  
28 or person or authorized agency having lawful custody of the  
29 child.

30           2. The mere fact that an unmarried biological father  
31 expresses a desire to fulfill his responsibilities towards his

1 child which is unsupported by acts evidencing this intent does  
2 not preclude a finding by the court that the unmarried  
3 biological father failed to comply with the requirements of  
4 this subsection.

5 3. An unmarried biological father who openly lived  
6 with the child for at least 6 months within the 1-year period  
7 following the birth of the child and immediately preceding  
8 placement of the child with adoptive parents and who openly  
9 held himself out to be the father of the child during that  
10 period shall be deemed to have developed a substantial  
11 relationship with the child and to have otherwise met the  
12 requirements of this paragraph.

13 (b) With regard to a child who is younger than 6  
14 months of age at the time the child is placed with the  
15 adoptive parents, an unmarried biological father must have  
16 demonstrated a full commitment to his parental responsibility  
17 by having performed all of the following acts prior to the  
18 time the mother executes her consent for adoption:

19 1. Filed a notarized claim of paternity form with the  
20 Florida Putative Father Registry within the Office of Vital  
21 Statistics of the Department of Health, which form shall be  
22 maintained in the confidential registry established for that  
23 purpose and shall be considered filed when the notice is  
24 entered in the registry of notices from unmarried biological  
25 fathers.

26 2. Upon service of a notice of an intended adoption  
27 plan or a petition for termination of parental rights pending  
28 adoption, executed and filed an affidavit in that proceeding  
29 stating that he is personally fully able and willing to take  
30 responsibility for the child, setting forth his plans for care  
31 of the child, and agreeing to a court order of child support

1 and a contribution to the payment of living and medical  
2 expenses incurred for the mother's pregnancy and the child's  
3 birth in accordance with his ability to pay.

4 3. If he had knowledge of the pregnancy, paid a fair  
5 and reasonable amount of the expenses incurred in connection  
6 with the mother's pregnancy and the child's birth, in  
7 accordance with his financial ability and when not prevented  
8 from doing so by the birth mother or person or authorized  
9 agency having lawful custody of the child.

10 (c) The petitioner shall file with the court a  
11 certificate from the Office of Vital Statistics stating that a  
12 diligent search has been made of the Florida Putative Father  
13 Registry of notices from unmarried biological fathers  
14 described in subparagraph (b)1. and that no filing has been  
15 found pertaining to the father of the child in question or, if  
16 a filing is found, stating the name of the putative father and  
17 the time and date of filing. That certificate shall be filed  
18 with the court prior to the entry of a final judgment of  
19 termination of parental rights.

20 (d) An unmarried biological father who does not comply  
21 with each of the conditions provided in this subsection is  
22 deemed to have waived and surrendered any rights in relation  
23 to the child, including the right to notice of any judicial  
24 proceeding in connection with the adoption of the child, and  
25 his consent to the adoption of the child is not required.

26 (3)(a) Pursuant to chapter 48, an adoption entity may  
27 serve upon any unmarried biological father identified by the  
28 mother or identified by a diligent search of the Florida  
29 Putative Father Registry, or upon an entity whose consent is  
30 required, a notice of intended adoption plan at any time prior  
31 to the placement of the child in the adoptive home, including

1 prior to the birth of the child. The notice of intended  
2 adoption plan must specifically state that if the unmarried  
3 biological father desires to contest the adoption plan, he  
4 must file with the court, within 30 days after service, a  
5 verified response that contains a pledge of commitment to the  
6 child in substantial compliance with subparagraph (2)(b)2. The  
7 notice of intended adoption plan shall notify the unmarried  
8 biological father that he must file a claim of paternity form  
9 with the Office of Vital Statistics within 30 days after  
10 service upon him and must provide the adoption entity with a  
11 copy of the verified response filed with the court and the  
12 claim of paternity form filed with the Office of Vital  
13 Statistics. If the party served with the notice of intended  
14 adoption plan is an entity, the entity must file, within 30  
15 days after service, a verified response setting forth a legal  
16 basis for contesting the intended adoption plan, specifically  
17 addressing the best interest of the child. If the unmarried  
18 biological father or entity whose consent is required fails to  
19 properly file a verified response with the court and, in the  
20 case of an unmarried biological father, a claim of paternity  
21 form with the Office of Vital Statistics within 30 days after  
22 service upon that unmarried biological father or entity whose  
23 consent is required, the consent of that unmarried biological  
24 father or entity shall no longer be required under this  
25 chapter and that party shall be deemed to have waived any  
26 claim of rights to the child. Each notice of intended adoption  
27 plan served upon an unmarried biological father must include  
28 instructions as to the procedure the unmarried biological  
29 father must follow to submit a claim of paternity form to the  
30 Office of Vital Statistics and the address to which the  
31 registration must be directed.

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

18           ~~(4)(2)~~ Any person whose consent is required under  
19 ~~paragraphs (1)(c)-(e) paragraph (1)(c) or paragraph (1)(d)~~ may  
20 execute an irrevocable affidavit of nonpaternity in lieu of a  
21 consent under this section and by doing so waives notice to  
22 all court proceedings after the date of execution. An  
23 affidavit of nonpaternity must be executed as provided in s.  
24 63.082. The affidavit of nonpaternity may be executed prior to  
25 the birth of the child. The person executing the affidavit  
26 must receive disclosure under s. 63.085 prior to signing the  
27 affidavit.

28           ~~(5)(3)~~ A person who signs a consent to adoption or an  
29 affidavit of nonpaternity must be given reasonable notice of  
30 his or her right to select a person who does not have an  
31 employment, professional, or personal relationship with the



1 adoption entity or the prospective adoptive parents to be  
2 present when the consent to adoption or affidavit of  
3 nonpaternity is executed and to sign the consent or affidavit  
4 as a witness.

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

7  
8 ~~AFFIDAVIT OF NONPATERNITY~~

9  
10 ~~1. I have personal knowledge of the facts stated in~~  
11 ~~this affidavit.~~

12 ~~2. I have been told that \_\_\_\_\_ has a child. I shall~~  
13 ~~not establish or claim paternity for this child, whose name is~~  
14 ~~\_\_\_\_\_ and whose date of birth is \_\_\_\_\_.~~

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

19 ~~4. With respect to the child referenced in this~~  
20 ~~affidavit, I have not provided the birth mother with child~~  
21 ~~support or prebirth support; I have not provided her with~~  
22 ~~prenatal care or assisted her with medical expenses; I have~~  
23 ~~not provided the birth mother or her child or unborn child~~  
24 ~~with support of any kind, nor do I intend to do so.~~

25 ~~5. I have no interest in assuming the~~  
26 ~~responsibilities of parenthood for this child. I will not~~  
27 ~~acknowledge in writing that I am the father of this child or~~  
28 ~~institute court proceedings to establish the child as mine.~~

29 ~~6. I do not object to any decision or arrangements~~  
30 ~~\_\_\_\_\_ makes regarding this child, including adoption.~~

31

1           ~~7. I have been told of my right to choose a person~~  
2 ~~who does not have an employment, professional, or personal~~  
3 ~~relationship with the adoption entity or the prospective~~  
4 ~~adoptive parents to be present when this affidavit is executed~~  
5 ~~and to sign it as a witness.~~

6  
7           ~~I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO TERMINATE~~  
8 ~~PARENTAL RIGHTS OR FINALIZE AN ADOPTION UNDER CHAPTER 63,~~  
9 ~~FLORIDA STATUTES.~~

10  
11           ~~(5) The court may require that consent be executed by:~~  
12           ~~(a) Any person lawfully entitled to custody of the~~  
13 ~~minor; or~~

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

17           (6) The petitioner must make good faith and diligent  
18 efforts as provided under s. 63.088 to notify, and obtain  
19 written consent from, the persons required to consent to  
20 adoption under this section.

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

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

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

30           (b) Written notice of the final hearing on the consent  
31 ~~to adoption has been provided to executed by~~ the parents, if

1 any, or proof of service of process has been filed, showing  
2 notice has been served on the parents as provided in this  
3 chapter.

4       (9)~~(a)~~ A petition for termination of parental rights  
5 shall be filed in the appropriate county as determined under  
6 s. 63.087(2). If the parent or parents whose rights are to be  
7 terminated object to venue in the county where the action was  
8 filed, the court may transfer the action to the county where  
9 the objecting parent or parents reside, unless the objecting  
10 parent has previously executed a waiver of venue.~~in cases~~  
11 ~~involving a child younger than 6 months of age in which venue~~  
12 ~~for the termination of parental rights may be located in a~~  
13 ~~county other than where the parent whose rights are to be~~  
14 ~~terminated resides, the adoption entity must obtain, from any~~  
15 ~~party executing an affidavit of nonpaternity or consent, a~~  
16 ~~waiver of venue, which must be filed with the petition and~~  
17 ~~must be in substantially the following form:~~

18  
19               ~~WAIVER OF VENUE~~

20  
21               ~~I understand that I have the right to require that the~~  
22 ~~Petition to terminate my parental rights be filed in the~~  
23 ~~county where I reside. I waive such right so that the Petition~~  
24 ~~to Terminate Parental Rights may be filed by . . . (adoption~~  
25 ~~entity) . . . in . . . (county name) . . . County, Florida.~~

26  
27               ~~I understand that, after signing this waiver, I may~~  
28 ~~object to the county where the proceedings to terminate my~~  
29 ~~parental rights will be held by appearing at the hearing or by~~  
30 ~~filing a written objection, on the attached form, with the~~  
31 ~~Clerk of the Court who is located at . . . (address of court)~~

1 ~~... If I later object to this transfer of venue, the case~~  
2 ~~will be transferred to a county in Florida in which I reside~~  
3 ~~if I intend to assert legally recognized grounds to contest a~~  
4 ~~termination of parental rights. If I have no such residence,~~  
5 ~~the case will be transferred to a county where another parent~~  
6 ~~resides or where at least one parent resided at the time of~~  
7 ~~signing a consent or affidavit of nonpaternity.~~

8  
9       ~~(10)(b)1.~~ The waiver of venue must be a separate  
10 document containing no consents, disclosures, or other  
11 information unrelated to venue.

12       ~~2. Adoption entities must attach to the waiver of~~  
13 ~~venue a form that the parent whose rights are to be terminated~~  
14 ~~may use to request a transfer of venue for the proceeding.~~  
15 ~~This form must contain the intended caption of the action for~~  
16 ~~termination of parental rights and information identifying the~~  
17 ~~child which will be sufficient for the clerk to properly file~~  
18 ~~the form upon receipt.~~

19       ~~3. This form must include a notice that if an adoption~~  
20 ~~entity knows that a parent whose rights will be terminated~~  
21 ~~intends to object to the termination but intentionally files~~  
22 ~~the petition for termination of parental rights in a county~~  
23 ~~which is not consistent with the required venue under such~~  
24 ~~circumstances, the adoption entity shall be responsible for~~  
25 ~~the attorney's fees of the parent contesting the transfer of~~  
26 ~~venue.~~

27       Section 13. Section 63.063, Florida Statutes, is  
28 created to read:

29       63.063 Responsibility of each party for their own  
30 actions; fraud or misrepresentation; statutory compliance.--

31

1       (1) Each parent of a child conceived or born outside  
2 of marriage is responsible for his or her own actions and is  
3 not excused from compliance with the provisions of this  
4 chapter based upon any action, statement, or omission of the  
5 other parent or a third party, except as provided in s.  
6 63.062(2)(a).

7       (2) Any person injured by a fraudulent representation  
8 or action in connection with an adoption is entitled to pursue  
9 civil or criminal penalties as provided by law. A fraudulent  
10 representation is not a defense to compliance with the  
11 requirements of this chapter and is not a basis for dismissing  
12 a petition for termination of parental rights or a petition  
13 for adoption, for vacating an adoption decree, or for granting  
14 custody to the offended party. Custody and adoption  
15 determinations shall be based on the best interest of the  
16 child in accordance with s. 61.13.

17       (3) The Legislature finds no way to remove all risk of  
18 fraud or misrepresentation in adoption proceedings and has  
19 provided a method for absolute protection of an unmarried  
20 biological father's rights by compliance with the provisions  
21 of this chapter. In balancing the rights and interests of the  
22 state and of all parties affected by fraud, including the  
23 child, the adoptive parents, and the unmarried biological  
24 father, the Legislature has determined that the unmarried  
25 biological father is in the best position to prevent or  
26 ameliorate the effects of fraud and, therefore, has the burden  
27 of preventing fraud.

28       (4) The Legislature finds that an unmarried biological  
29 father who resides in another state may not, in every  
30 circumstance, be reasonably presumed to know of and comply  
31 with the requirements of this chapter. Therefore, if all of

1 the following requirements have been met, an unmarried  
2 biological father may contest a termination of parental rights  
3 or subsequent adoption and, prior to entry of the final  
4 judgment of adoption, assert his interest in the child.

5 Following such assertion, the court may, in its discretion,  
6 proceed with an evidentiary hearing if:

7 (a) The unmarried biological father resides and has  
8 resided in another state where the unmarried mother was also  
9 located or resided.

10 (b) The unmarried mother left that state without  
11 notifying or informing the unmarried biological father that  
12 she could be located in the State of Florida.

13 (c) The unmarried biological father has, through every  
14 reasonable means, attempted to locate the mother but does not  
15 know or have reason to know that the mother is residing in the  
16 State of Florida.

17 (d) The unmarried biological father has substantially  
18 complied with the requirements of the state where the mother  
19 previously resided or was located in order to protect and  
20 preserve his parental interest and rights with regard to the  
21 child.

22 Section 14. Section 63.064, Florida Statutes, is  
23 created to read:

24 63.064 Persons whose consent to an adoption may be  
25 waived.--The court may waive the consent of the following  
26 individuals to an adoption:

27 (1) A parent who has deserted a child without means of  
28 identification or who has abandoned a child.

29 (2) A parent whose parental rights have been  
30 terminated by order of a court of competent jurisdiction.

31

1           (3) A parent who has been judicially declared  
2 incompetent and for whom restoration of competency is  
3 medically improbable.

4           (4) A legal guardian or lawful custodian of the person  
5 to be adopted, other than a parent, who has failed to respond  
6 in writing to a request for consent for a period of 60 days or  
7 who, after examination of his or her written reasons for  
8 withholding consent, is found by the court to be withholding  
9 his or her consent unreasonably.

10           (5) The spouse of the person to be adopted, if the  
11 failure of the spouse to consent to the adoption is excused by  
12 reason of prolonged and unexplained absence, unavailability,  
13 incapacity, or circumstances that are found by the court to  
14 constitute unreasonable withholding of consent.

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

17           63.082 Execution of consent to adoption or affidavit  
18 of nonpaternity; family social and medical history; withdrawal  
19 of consent.--

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

22           1.(a) If by the person to be adopted, by oral or  
23 written statement in the presence of the court or by being  
24 acknowledged before a notary public and in the presence of two  
25 witnesses.

26           2.(b) If by an agency, by affidavit from its  
27 authorized representative.

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

31

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

3           (b) A minor parent has the power to consent to the  
4 adoption of his or her child and has the power to relinquish  
5 his or her control or custody of the child to an adoption  
6 entity. Such consent or relinquishment is valid and has the  
7 same force and effect as a consent or relinquishment executed  
8 by an adult parent. A minor parent, having executed a consent  
9 or relinquishment, may not revoke that consent upon reaching  
10 the age of majority or otherwise becoming emancipated.

11           (c) A consent or an affidavit of nonpaternity executed  
12 by a minor parent who is 14 years of age or younger must be  
13 witnessed by a parent, legal guardian, or court-appointed  
14 guardian ad litem.

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

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

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



1 biological and sociological information or ~~such~~ information as  
2 to the family medical history, regarding the minor and the  
3 parents, ~~as is required by the department.~~ This form is not  
4 required for adoptions of relatives, adult adoptions, or  
5 adoptions of stepchildren, unless parental rights are being or  
6 were terminated pursuant to chapter 39. The information must  
7 be filed with the court in the termination of parental rights  
8 proceeding incorporated into the final home investigation  
9 report specified in s. 63.125.

10 (b) A good faith and diligent effort must be made to  
11 have each parent whose identity is known and whose consent is  
12 required ~~Each parent must be~~ interviewed by a representative  
13 of the adoption entity department, ~~a licensed child-placing~~  
14 ~~agency, or a licensed professional, pursuant to s. 63.092,~~  
15 ~~before the consent is executed, unless the parent cannot be~~  
16 ~~located or identified.~~ A summary of each interview, or a  
17 statement that the parent is unidentified, unlocated, or  
18 unwilling or unavailable to be interviewed ~~unlocated or~~  
19 ~~unidentified,~~ must be filed with the petition to terminate  
20 parental rights pending adoption ~~and included in the final~~  
21 ~~home investigation report filed under s. 63.125.~~ The interview  
22 may be excused by the court for good cause. This interview is  
23 not required for adoptions of relatives, adult adoptions, or  
24 adoptions of stepchildren, unless parental rights are being or  
25 were terminated pursuant to chapter 39.

26 (b) ~~Consent executed by an appropriate order or~~  
27 ~~certificate of the court if executed under s. 63.062(5)(b)~~  
28 ~~must be attached to the petition to terminate parental rights~~  
29 ~~pending adoption.~~

30 (c) If any person who is required to consent ~~or social~~  
31 ~~and medical history~~ is unavailable because the person whose

1 ~~consent is required~~ cannot be located ~~or identified~~, the  
2 petition to terminate parental rights pending adoption must be  
3 accompanied by the affidavit of diligent search required under  
4 s. 63.088.

5 (d) If any person who is required to consent is  
6 unavailable because the person is deceased, the petition to  
7 terminate parental rights pending adoption must be accompanied  
8 by a certified copy of the death certificate. In an adoption  
9 of a stepchild or a relative, the certified copy of the death  
10 certificate of the person whose consent is required must be  
11 attached to the petition for adoption.

12 (4)(a) An affidavit of nonpaternity may be executed  
13 before the birth of the minor; however, the consent to an  
14 adoption or affidavit of nonpaternity shall not be executed  
15 before the birth of the minor.

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

1           (c) When the minor to be adopted is older than 6  
2 months of age at the time of the execution of the consent not  
3 placed pursuant to s. 63.052 upon the minor's release from a  
4 licensed hospital or birth center following birth, the consent  
5 to adoption may be executed at any time after the birth of the  
6 minor. While such consent is valid upon execution; however, it  
7 is subject to a the 3-day revocation period under subsection  
8 (7) or may be revoked at any time prior to the placement of  
9 the minor with the prospective adoptive parents, whichever is  
10 later. If a consent has been executed, this subsection may not  
11 be construed to provide a birth parent with more than 3 days  
12 to revoke the ~~that~~ consent once the child has been placed with  
13 the prospective adoptive parents. The revocation period  
14 provided in this paragraph does not apply in any case in which  
15 the waiting period in paragraph(b) applies.

16           (d) The consent to adoption or the affidavit of  
17 nonpaternity must be signed in the presence of two witnesses  
18 and be acknowledged before a notary public who is not signing  
19 as one of the witnesses. The notary public must legibly note  
20 on the consent or the affidavit the date and time of  
21 execution. The witnesses' names must be typed or printed  
22 underneath their signatures. The witnesses' home or business  
23 addresses ~~and social security numbers, driver's license~~  
24 ~~numbers, or state identification card numbers~~ must be  
25 included. ~~The absence of a social security number, driver's~~  
26 ~~license number, or state identification card number shall not~~  
27 ~~invalidate the consent.~~ The person who signs the consent or  
28 the affidavit has the right to have at least one of the  
29 witnesses be an individual who does not have an employment,  
30 professional, or personal relationship with the adoption  
31 entity or the prospective adoptive parents. The adoption

1 entity must give reasonable notice to the person signing the  
2 consent or affidavit of the right to select a witness of his  
3 or her own choosing. The person who signs the consent or  
4 affidavit must acknowledge in writing on the consent or  
5 affidavit that such notice was given and indicate the witness,  
6 if any, who was selected by the person signing the consent or  
7 affidavit. The adoption entity must include its name, address,  
8 and telephone number on the consent to adoption or affidavit  
9 of nonpaternity.

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

14  
15 CONSENT TO ADOPTION

16  
17 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO  
18 DOES NOT HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL  
19 RELATIONSHIP WITH THE ADOPTION ENTITY OR THE PROSPECTIVE  
20 ADOPTIVE PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS EXECUTED  
21 AND TO SIGN IT AS A WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM  
22 THAT YOU WERE NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE  
23 WITNESS OR WITNESSES YOU SELECTED, IF ANY.

24  
25 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO  
26 ANY OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE  
27 SIGNING THIS CONSENT:

- 28  
29 1. CONSULT WITH AN ATTORNEY;  
30 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE  
31 LEGALLY PROHIBITED;

1           3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND  
2 OR FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE  
3 CHILD;

4           4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY  
5 PROHIBITED; AND

6           5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE  
7 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.  
8

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

29           IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD  
30 OR DURESS AND YOU WISH TO REVOKE THAT CONSENT ~~IF YOU ARE~~  
31 ~~GIVING UP YOUR RIGHTS TO A CHILD WHO IS NOT PLACED FOR~~

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

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

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

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

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

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

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

30  
31

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

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

14  
15           This statement of rights is not required for the  
16 adoption of a relative, an adult, a stepchild, or a child  
17 older than 6 months of age. A consent form for the adoption of  
18 a child older than 6 months of age at the time of execution of  
19 consent must contain a statement outlining the revocation  
20 rights provided in paragraph (c).

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

25           ~~(5)(6)~~ A copy or duplicate original of each consent  
26 signed in an action for termination of parental rights pending  
27 adoption must be provided to the person who executed the  
28 consent to adoption. The copy must be hand delivered, with a  
29 written acknowledgment of receipt signed by the person whose  
30 consent is required at the time of execution, or mailed by  
31 first class United States mail to the address of record in the

1 ~~court file~~. If a copy of a consent cannot be provided as  
2 required in this subsection, the adoption entity must execute  
3 an affidavit stating why the copy of the consent was not  
4 delivered is undeliverable. The original consent and  
5 acknowledgment of receipt, ~~an acknowledgment of mailing by the~~  
6 ~~adoption entity~~, or an affidavit stating why the copy of the  
7 consent was not delivered, is undeliverable must be filed with  
8 the petition for termination of parental rights pending  
9 adoption.

10 (6)(a) If a birth parent executes a consent for  
11 placement of a minor with an adoption entity or qualified  
12 prospective adoptive parents and the minor child is in the  
13 custody of the department, but parental rights have not yet  
14 been terminated, the adoption consent shall be valid, binding,  
15 and enforceable by the court.

16 (b) Upon execution of the consent of the birth parent,  
17 the adoption entity shall be permitted to intervene in the  
18 dependency case as a party in interest and shall provide the  
19 court having jurisdiction over the minor pursuant to the  
20 shelter or dependency petition filed by the department with a  
21 copy of the preliminary home study of the prospective adoptive  
22 parents and any other evidence of the suitability of the  
23 placement. The preliminary home study shall be maintained with  
24 strictest confidentiality within the dependency court file and  
25 the department's file. A preliminary home study must be  
26 provided to the court in all cases in which an adoption entity  
27 has intervened pursuant to this section.

28 (c) Upon a determination by the court that the  
29 prospective adoptive parents are properly qualified to adopt  
30 the minor child and that the adoption appears to be in the  
31 best interest of the minor child, the court shall immediately



1 order the transfer of custody of the minor child to the  
2 prospective adoptive parents, under the supervision of the  
3 adoption entity. The adoption entity shall thereafter provide  
4 monthly supervision reports to the department until  
5 finalization of the adoption.

6 (d) In determining whether the best interest of the  
7 child will be served by transferring the custody of the minor  
8 child to the prospective adoptive parent selected by the birth  
9 parent, the court shall give consideration to the rights of  
10 the birth parent to determine an appropriate placement for the  
11 child, the permanency offered, the child's bonding with any  
12 potential adoptive home that the child has been residing in,  
13 and the importance of maintaining sibling relationships, if  
14 possible.

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

26 (b) Upon receiving written notice from a person of  
27 that person's desire to withdraw consent to adoption, the  
28 adoption entity must contact the prospective adoptive parent  
29 to arrange a time certain for the adoption entity to regain  
30 physical custody of the minor, unless, upon a motion for  
31 emergency hearing by the adoption entity, the court determines

1 in written findings that placement of the minor with the  
2 person withdrawing consent may endanger the minor, or the  
3 person who desires to withdraw consent to the adoption would  
4 not be required to consent to the adoption or has been  
5 determined to have abandoned the child.

6 (c) If the court finds that such placement may  
7 endanger the minor, the court must enter an order regarding  
8 continued placement of the minor. The order shall include, but  
9 not be limited to, whether temporary placement in foster care  
10 is appropriate, whether an investigation by the department is  
11 recommended, and whether a relative ~~within the third degree~~ is  
12 available for the temporary placement.

13 (d) If the person withdrawing consent claims to be the  
14 father of the minor but has not been established to be the  
15 father by marriage, court order, or scientific testing, the  
16 court may order scientific paternity testing and reserve  
17 ruling on removal of the minor until the results of such  
18 testing have been filed with the court.

19 (e) The adoption entity must return the minor within 3  
20 business days after timely and proper notification of the  
21 withdrawal of consent or after the court determines that  
22 withdrawal is valid and binding upon consideration of an  
23 emergency motion, as filed pursuant to paragraph (b), to the  
24 physical custody of the person withdrawing consent or the  
25 person directed by the court. If the person seeking to validly  
26 withdraw consent claims to be the father of the minor but has  
27 not been established to be the father by marriage, court  
28 order, or scientific testing, the adoption entity may return  
29 the minor to the care and custody of the mother, if she  
30 desires such placement, and the mother is not otherwise  
31 prohibited by law from having custody of the child.

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

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

9 Section 16. Section 63.085, Florida Statutes, is  
10 amended to read:

11 63.085 Disclosure by adoption entity.--

12 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE  
13 ADOPTIVE PARENTS.--Not later than 14 7 days after a person  
14 seeking to adopt a minor or a person seeking to place a minor  
15 for adoption contacts an adoption entity in person or provides  
16 the adoption entity with a mailing address, the entity must  
17 provide a written disclosure statement to that person if the  
18 entity agrees or continues to work with such person. If an  
19 adoption entity is assisting in the effort to terminate the  
20 parental rights of a parent who did not initiate the contact  
21 with the adoption entity, the written disclosure must be  
22 provided within 14 7 days after that parent is identified and  
23 located. For purposes of providing the written disclosure, a  
24 person is considered to be seeking to place a minor for  
25 adoption when that person has sought information or advice  
26 from the adoption entity regarding the option of adoptive  
27 placement. The written disclosure statement must be in  
28 substantially the following form:

29

30 ADOPTION DISCLOSURE

31

1 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE  
2 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A MINOR OR  
3 SEEKING TO PLACE A MINOR FOR ADOPTION, TO ADVISE THEM OF THE  
4 FOLLOWING FACTS REGARDING ADOPTION UNDER FLORIDA LAW:  
5

6 1. The name, address, and telephone number of the  
7 adoption entity providing this disclosure is:

8 Name: \_\_\_\_\_

9 Address: \_\_\_\_\_

10 Telephone Number: \_\_\_\_\_

11 2. The adoption entity does not provide legal  
12 representation or advice to birth parents, and birth parents  
13 have the right to consult with an attorney of their own  
14 choosing to advise them.

15 3. With the exception of an adoption by a stepparent  
16 or relative, a child cannot be placed into a prospective  
17 adoptive home unless the prospective adoptive parents have  
18 received a favorable preliminary home study, including  
19 criminal and child abuse clearances.

20 4. A valid consent for adoption may not be signed by  
21 the birth mother until 48 hours after the birth of the child,  
22 or the day the birth mother is notified, in writing, that she  
23 is fit for discharge from the licensed hospital or birth  
24 center. A putative father may sign a valid consent for  
25 adoption at any time after the birth of the child.

26 5. A consent for adoption signed before the child  
27 attains the age of 6 months is binding and irrevocable from  
28 the moment it is signed unless it can be proven in court that  
29 the consent was obtained by fraud or duress. A consent for  
30 adoption signed after the child attains the age of 6 months is  
31 valid from the moment it is signed; however, it may be revoked

1 until the child is placed in an adoptive home, or up to 3 days  
2 after it was signed, whichever period is longer.

3 6. A consent for adoption is not valid if the  
4 signature of the person who signed the consent was obtained by  
5 fraud or duress.

6 7. There are alternatives to adoption, including  
7 foster care, relative care, and parenting the child. There may  
8 be services and sources of financial assistance in the  
9 community available to birth parents if they choose to parent  
10 the child.

11 8. A birth parent has the right to have a witness of  
12 his or her choice, who is unconnected with the adoption entity  
13 or the adoptive parents, to be present and witness the signing  
14 of the consent or affidavit of nonpaternity.

15 9. A birth parent 14 years of age or younger must  
16 have a parent, legal guardian, or court-appointed guardian ad  
17 litem to assist and advise the birth parent as to the adoption  
18 plan.

19 10. A birth parent has a right to receive supportive  
20 counseling from a counselor, social worker, physician, clergy,  
21 or attorney, and such counseling would be beneficial to the  
22 birth parent.

23 11. The payment of living or medical expenses by the  
24 prospective adoptive parents prior to the birth of the child  
25 does not, in any way, obligate the birth parent to sign the  
26 consent for adoption.

27 ~~1. Under section 63.102, Florida Statutes, the~~  
28 ~~existence of a placement or adoption contract signed by the~~  
29 ~~parent or prospective adoptive parent, prior approval of that~~  
30 ~~contract by the court, or payment of any expenses permitted~~

31

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

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

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

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

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

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

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

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

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

31

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

9           ~~10. Under section 63.088, Florida Statutes, specific~~  
10 ~~and extensive efforts are required by law to attempt to obtain~~  
11 ~~the consents required under section 63.062, Florida Statutes.~~  
12 ~~If these efforts are unsuccessful, the court may not enter a~~  
13 ~~judgment terminating parental rights pending adoption until~~  
14 ~~certain requirements have been met.~~

15           ~~11. Under Florida law, an intermediary may represent~~  
16 ~~the legal interests of only the prospective adoptive parents.~~  
17 ~~Each person whose consent to an adoption is required under~~  
18 ~~section 63.062, Florida Statutes, is entitled to seek~~  
19 ~~independent legal advice and representation before signing any~~  
20 ~~document or surrendering parental rights.~~

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

30           ~~13. Under section 63.089, Florida Statutes, a~~  
31 ~~judgment terminating parental rights pending adoption is~~



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

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

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

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

30  
31

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

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

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

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

1           ~~a. Any fee or expense that constitutes payment for~~  
2 ~~locating a minor for adoption.~~

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

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

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

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

21           ~~22. Under section 63.132, Florida Statutes, the court~~  
22 ~~order approving the money spent on the adoption must be~~  
23 ~~separate from the judgment making the adoption final. The~~  
24 ~~court may approve only certain costs and expenses allowed~~  
25 ~~under section 63.097, Florida Statutes. The court may approve~~  
26 ~~only fees that are allowed under law and that it finds to be~~  
27 ~~"reasonable." A good idea of what is and is not allowed to be~~  
28 ~~paid for in an adoption can be determined by reading sections~~  
29 ~~63.097 and 63.132, Florida Statutes.~~

30  
31

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

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

25           (3)(4) REVOCATION OF CONSENT.--Failure to meet the  
26 requirements of subsection (1) or subsection (2) ~~subsections~~  
27 ~~(1)-(3)~~ does not constitute grounds for revocation of a  
28 consent to adoption or withdrawal of an affidavit of  
29 nonpaternity unless the extent and circumstances of such a  
30 failure result in a material failure of fundamental fairness  
31 in the administration of due process, or the failure

1 constitutes or contributes materially to fraud or duress in  
2 obtaining a consent to adoption or affidavit of nonpaternity.

3 Section 17. Section 63.087, Florida Statutes, is  
4 amended to read:

5 63.087 Proceeding to terminate parental rights pending  
6 adoption; general provisions.--

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

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

14 ~~(1)(3) JURISDICTION.--A court of this state which is~~  
15 ~~competent to decide child welfare or custody matters has~~  
16 ~~jurisdiction to hear all matters arising from a proceeding to~~  
17 ~~terminate parental rights pending adoption. All subsequent~~  
18 ~~proceedings for the adoption of the minor, if the petition for~~  
19 ~~termination is granted, must be conducted by the same judge~~  
20 ~~who conducted the termination proceedings, if that judge is~~  
21 ~~still available within the division of the court which~~  
22 ~~conducts termination or adoption cases or, if that judge is~~  
23 ~~unavailable, by another judge within the division.~~

24 ~~(2)(4) VENUE.--~~

25 (a) A petition to terminate parental rights pending  
26 adoption must be filed:

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

29 2. If the child does not reside in the State of  
30 Florida, in the county where the adoption entity is located ~~is~~  
31 ~~younger than 6 months of age or has not continuously resided~~

1 ~~in one county for the previous 6 months, in the county where~~  
2 ~~the parent resided at the time of the execution of the consent~~  
3 ~~to adoption or the affidavit of nonpaternity;~~

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

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

15         ~~4.5.~~ If neither parent resides in the state, in the  
16 county where the adoption entity is located. The fact of the  
17 minor's presence within the state confers jurisdiction on the  
18 court in proceedings in the minor's case under this chapter,  
19 or to a parent or guardian if due notice has been given.

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

29         ~~1. At least one parent whose rights are to be~~  
30 ~~terminated resides;~~

31

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

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

5  
6           For purposes of selecting venue, the court shall  
7 consider the ease of access to the court for the parent who  
8 intends to contest a termination of parental rights.

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

12  
13           For purposes of the hearing under this subsection,  
14 witnesses located in another jurisdiction may testify by  
15 deposition or testify by telephone, audiovisual means, or  
16 other electronic means before a designated court or at another  
17 location. Documentary evidence transmitted from another  
18 location by technological means that do not produce an  
19 original writing may not be excluded from evidence on an  
20 objection based on the means of transmission. The court on its  
21 own motion may otherwise prescribe the manner in which and the  
22 terms upon which the testimony is taken.

23           ~~(3)(5)~~ PREREQUISITE FOR ADOPTION.--A petition for  
24 adoption may not be filed until ~~30 days~~ after the date the  
25 court enters ~~judge signed~~ the judgment terminating parental  
26 rights pending adoption under this chapter or, ~~unless the~~  
27 ~~adoptee is an adult or the minor has been the subject of a~~  
28 ~~judgment terminating parental rights~~ under chapter 39.  
29 Adoptions of relatives, adult adoptions, or adoptions of  
30 stepchildren shall not be required to file a separate  
31 termination of parental rights proceeding pending adoption. In

1 such cases, all required consents, affidavits, notices, and  
2 acknowledgements shall be attached to the petition for  
3 adoption or filed separately in the adoption proceeding.

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

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

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

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

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

24 (d)~~(e)~~ The petition to terminate parental rights  
25 pending adoption must be in writing and signed by the  
26 petitioner under oath stating the petitioner's good faith in  
27 filing the petition. A written consent to adoption, affidavit  
28 of nonpaternity, or affidavit of diligent search under s.  
29 63.088, for each person whose consent to adoption is required  
30 under s. 63.062, must be executed and attached.

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



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

15           2. ~~If the petition is filed before the day the minor~~  
16 ~~is 6 months old and if the identity or location of the father~~  
17 ~~is unknown, each city in which the mother resided or traveled,~~  
18 ~~in which conception may have occurred, during the 12 months~~  
19 ~~before the minor's birth, including the county and state in~~  
20 ~~which that city is located.~~

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

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

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

29           c. ~~Any person who has legal custody, as defined in s.~~  
30 ~~39.01, of the minor.~~

31

1 ~~If a required name or address is not known, the~~  
2 ~~petition must so state.~~

3 ~~2.4.~~ All information required by the Uniform Child  
4 Custody Jurisdiction Act and the Indian Child Welfare Act.

5 ~~3.5.~~ A statement of the grounds under s. 63.089 upon  
6 which the petition is based.

7 ~~4.6.~~ The name, address, and telephone number of any  
8 adoption entity seeking to place the minor for adoption.

9 ~~5.7.~~ The name, address, and telephone number of the  
10 division of the circuit court in which the petition is to be  
11 filed.

12 ~~6.8.~~ A certification of compliance with the  
13 requirements of s. 63.0425 regarding notice to grandparents of  
14 an impending adoption.

15 (5) SUMMONS TO BE ISSUED.--The petitioner shall cause  
16 a summons to be issued substantially in the form provided in  
17 Form 1.902, Florida Rules of Civil Procedure. Petition and  
18 summons shall be served upon any person whose consent has been  
19 provided but who has not waived service of the pleadings and  
20 notice of the hearing thereon and also upon any person whose  
21 consent is required but who has not provided that consent.

22 ~~(6)(7) ANSWER NOT REQUIRED.--An answer to the petition~~  
23 ~~or any pleading requiring an answer shall need not be filed in~~  
24 ~~accordance with the Florida Rules of Civil Procedure by any~~  
25 ~~minor, parent, or person having legal custody of the minor,~~  
26 ~~but any matter that might be set forth in an answer or other~~  
27 ~~pleading may be pleaded orally before the court or filed in~~  
28 ~~writing. However, Failure to file a written response or to~~  
29 ~~appear at the hearing on the petition constitutes grounds upon~~  
30 ~~which the court may terminate parental rights. The petitioner~~  
31 ~~shall provide notice of the final hearing by United States~~

1 mail to any person who has been served with the summons and  
2 petition for termination of parental rights within the  
3 specified time periods.Notwithstanding the filing of any  
4 answer or any pleading, any person present at the hearing to  
5 terminate parental rights pending adoption whose consent to  
6 adoption is required under s. 63.062 must:

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

10 (b) Be given an opportunity to deny the allegations in  
11 the petition ~~and~~

12 ~~(c) Be given the opportunity to challenge the validity~~  
13 ~~of any consent or affidavit of nonpaternity signed by any~~  
14 ~~person.~~

15 Section 18. Section 63.088, Florida Statutes, is  
16 amended to read:

17 63.088 Proceeding to terminate parental rights pending  
18 adoption; notice and service; diligent search.--

19 (1) NOTICE REQUIRED.--An unmarried biological father,  
20 by virtue of the fact that he has engaged in a sexual  
21 relationship with a woman, is deemed to be on notice that a  
22 pregnancy and an adoption proceeding regarding that child may  
23 occur and that he has a duty to protect his own rights and  
24 interest. He is, therefore, entitled to notice of a birth or  
25 adoption proceeding with regard to that child only as provided  
26 in this chapter.

27 (2)(1) INITIATE LOCATION AND IDENTIFICATION  
28 PROCEDURES.--When the location or identity of a person whose  
29 consent to an adoption is required but is not known, the  
30 adoption entity must begin the inquiry and diligent search  
31 process required by this section within a reasonable time

1 ~~period not later than 7 days~~ after the date on which the  
2 person seeking to place a minor for adoption has evidenced in  
3 writing to the adoption entity a desire to place the minor for  
4 adoption with that entity, or not later than 30 ~~7~~ days after  
5 the date any money is provided as permitted under this chapter  
6 by the adoption entity for the benefit of the person seeking  
7 to place a minor for adoption.

8 (3)~~(2)~~ LOCATION AND IDENTITY KNOWN.--Before the court  
9 may determine that a minor is available for adoption, and in  
10 addition to the other requirements set forth in this chapter,  
11 each person whose consent is required under s. 63.062, who has  
12 not executed an affidavit of nonpaternity, and whose location  
13 and identity have been determined by compliance with the  
14 procedures in this section must be personally served, pursuant  
15 to chapter 48, at least 20 ~~30~~ days before the hearing with a  
16 copy of the petition to terminate parental rights pending  
17 adoption and with notice in substantially the following form:

18  
19 NOTICE OF PETITION AND HEARING  
20 TO TERMINATE PARENTAL RIGHTS  
21 PENDING ADOPTION  
22

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

1 ~~waiver of venue, you have the right to request that the~~  
2 ~~hearing on the petition to terminate parental rights be~~  
3 ~~transferred to the county in which you reside. You may object~~  
4 ~~by appearing at the hearing or filing a written objection with~~  
5 ~~the court.~~

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

12  
13 (4)~~(3)~~ REQUIRED INQUIRY.--In proceedings initiated  
14 under s. 63.087, the court must conduct an inquiry of the  
15 person who is placing the minor for adoption and of any  
16 relative or person having legal custody of the minor who is  
17 present at the hearing and likely to have the following  
18 information regarding the identity of:

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

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

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

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

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

31

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

4           (e)(f) Any person who has acknowledged or claimed  
5 paternity of the minor; ~~and~~

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

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

17           (5)(4) LOCATION UNKNOWN; IDENTITY KNOWN.--If the  
18 inquiry by the court under subsection (4)(3) identifies any  
19 person whose consent to adoption is required under s. 63.062  
20 and who has not executed a consent to adoption or an affidavit  
21 of nonpaternity, and the location of the person from whom  
22 consent is required is unknown, the adoption entity must  
23 conduct a diligent search for that person which must include  
24 inquiries concerning:

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

28           (b) The last known employment of the person, including  
29 the name and address of the person's employer. ~~Inquiry should~~  
30 ~~be made of the last known employer as to any address to which~~  
31 ~~wage and earnings statements (W-2 forms) of the person have~~

1 ~~been mailed. Inquiry should be made of the last known employer~~  
2 ~~as to whether the person is eligible for a pension or~~  
3 ~~profit-sharing plan and any address to which pension or other~~  
4 ~~funds have been mailed;~~

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

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

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

18 (f) Telephone listings in the area where the person  
19 last resided;

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

22 (h) Highway patrol records in the state where the  
23 person last resided;

24 (i) Department of Corrections records in the state  
25 where the person last resided;

26 (j) Hospitals in the area where the person last  
27 resided;

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

31

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

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

5 (n) Search of one Internet databank locator service~~+~~  
6 and

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

13

14 ~~Any person contacted by a petitioner or adoption entity  
15 who is requesting information pursuant to this subsection must  
16 release the requested information to the petitioner or  
17 adoption entity, except when prohibited by law, without the  
18 necessity of a subpoena or court order.~~

19

20 An affidavit of diligent search executed by the  
21 petitioner and the adoption entity must be filed with the  
22 court confirming completion of each aspect of the diligent  
23 search enumerated in this subsection and specifying the  
24 results. The diligent search required under this subsection  
25 may be conducted before the birth of the minor.

26 ~~(6)(5) CONSTRUCTIVE SERVICE LOCATION UNKNOWN OR  
27 IDENTITY UNKNOWN~~ .--This subsection only applies if, as to any  
28 person whose consent is required under s. 63.062 and who has  
29 not executed a consent to adoption or an affidavit of  
30 nonpaternity, the location ~~or identity~~ of the person is  
31 unknown and the inquiry under ~~subsection (3) fails to identify~~



1 ~~the person or the diligent search under~~ subsection (4) fails  
2 to locate the person. The unlocated ~~or unidentified~~ person  
3 must be served notice under subsection (3)(2) by constructive  
4 service in the manner provided in chapter 49 ~~in each county~~  
5 ~~identified in the petition, as provided in s. 63.087(6)~~. The  
6 notice shall be published in the county where the person was  
7 last known to have resided. The notice, in addition to all  
8 information required under ~~in the petition under s. 63.087(6)~~  
9 ~~and~~ chapter 49, must include ~~contain~~ a physical description,  
10 including, but not limited to, age, race, hair and eye color,  
11 and approximate height and weight of the person, minor's  
12 ~~mother and of any person the mother reasonably believes may be~~  
13 ~~the father;~~ the minor's date of birth, and the place of birth  
14 of the minor. Constructive service by publication shall not be  
15 required to provide notice to an identified birth father whose  
16 consent is not required pursuant to ss. 63.062 and 63.064; ~~and~~  
17 ~~any date and city, including the county and state in which the~~  
18 ~~city is located, in which conception may have occurred. If any~~  
19 ~~of the facts that must be included in the notice under this~~  
20 ~~subsection are unknown and cannot be reasonably ascertained,~~  
21 ~~the notice must so state.~~

22 Section 19. Section 63.089, Florida Statutes, is  
23 amended to read:

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

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

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

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

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

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

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

7           4. The certificate from the Office of Vital Statistics  
8 has been provided to the court stating that a diligent search  
9 has been made of the Florida Putative Father Registry created  
10 in s. 63.054 and that no filing has been found pertaining to  
11 the father of the child in question or, if a filing is found,  
12 stating the name of the putative father and the time and date  
13 of the filing.

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

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

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

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

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

25           (d) The petition contains all information required  
26 under s. 63.087 and all affidavits of inquiry, diligent  
27 search, and service required under s. 63.088 have been  
28 obtained and filed with the court.

29           (3) GROUND FOR TERMINATING PARENTAL RIGHTS PENDING  
30 ADOPTION.--The court may enter a judgment terminating parental  
31 rights pending adoption if the court determines by clear and

1 convincing evidence, supported by written findings of fact,  
2 that each person whose consent to adoption is required under  
3 s. 63.062:

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

7 (b) Has executed an affidavit of nonpaternity and the  
8 affidavit was obtained according to the requirements of this  
9 chapter;

10 (c) Has been served with a notice of the intended  
11 adoption plan in accordance with the provisions of s.  
12 63.062(3) and has failed to respond within the designated time  
13 period;

14 (d)~~(e)~~ Has been properly served notice of the  
15 proceeding in accordance with the requirements of this chapter  
16 and has failed to file a written answer or appear at the  
17 evidentiary hearing resulting in the judgment terminating  
18 parental rights pending adoption;

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

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

26 (g)~~(f)~~ Is a person who has legal custody of the person  
27 to be adopted, other than a parent, who has failed to respond  
28 in writing to a request for consent for a period of 60 days  
29 or, after examination of his or her written reasons for  
30 withholding consent, is found by the court to be withholding  
31 his or her consent unreasonably;

1           (h)(g) Has been properly served notice of the  
2 proceeding in accordance with the requirements of this  
3 chapter, but has been found by the court, after examining  
4 written reasons for the withholding of consent, to be  
5 unreasonably withholding his or her consent; or

6           (i)(h) Is the spouse of the person to be adopted who  
7 has failed to consent, and the failure of the spouse to  
8 consent to the adoption is excused by reason of prolonged and  
9 unexplained absence, unavailability, incapacity, or  
10 circumstances that are found by the court to constitute  
11 unreasonable withholding of consent.

12           (4) FINDING OF ABANDONMENT.--A finding of abandonment  
13 resulting in a termination of parental rights must be based  
14 upon clear and convincing evidence that a parent or person  
15 having legal custody has abandoned the child in accordance  
16 with the definition contained in s. 63.032(1). A finding of  
17 abandonment may ~~not~~ be based upon ~~a lack of emotional support~~  
18 ~~to a birth mother during her pregnancy, but may be based upon~~  
19 emotional abuse or a refusal to provide reasonable financial  
20 support, when able, to a birth mother during her pregnancy.  
21 If, in the opinion of the court, the efforts of a parent or  
22 person having legal custody of the child to support and  
23 communicate with the child are only marginal efforts that do  
24 not evince a settled purpose to assume all parental duties,  
25 the court may declare the child to be abandoned. In making  
26 this decision, the court may consider the conduct of a father  
27 toward the child's mother during her pregnancy.

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

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

4           ~~2. Whether other persons prevented the person alleged~~  
5 ~~to have abandoned the child from making the efforts referenced~~  
6 ~~in this subsection;~~

7           ~~2.3.~~ Whether the person alleged to have abandoned the  
8 child, while being able, failed ~~refused~~ to provide financial  
9 support ~~after such person was informed he may be the father of~~  
10 ~~the child;~~

11           ~~3.4.~~ Whether the person alleged to have abandoned the  
12 child, while being able, failed ~~refused~~ to pay for medical  
13 treatment ~~when such payment was requested by the person having~~  
14 ~~legal custody of the child and those expenses were not covered~~  
15 ~~by insurance or other available sources; and~~

16           ~~4.5.~~ Whether the amount of support provided or medical  
17 expenses paid was appropriate, taking into consideration the  
18 needs of the child and relative means and resources available  
19 to the person alleged to have abandoned the child ~~and~~  
20 ~~available to the person having legal custody of the child~~  
21 ~~during the period the child allegedly was abandoned; and~~

22           ~~6. Whether the person having legal custody of the~~  
23 ~~child made the child's whereabouts known to the person alleged~~  
24 ~~to have abandoned the child, advised that person of the needs~~  
25 ~~of the child or the needs of the mother of an unborn child~~  
26 ~~with regard to the pregnancy, or informed that person of~~  
27 ~~events such as medical appointments and tests relating to the~~  
28 ~~child or, if unborn, the pregnancy.~~

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

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

5           2. The incarcerated parent has been determined by the  
6 court to be a violent career criminal as defined in s.  
7 775.084, a habitual violent felony offender as defined in s.  
8 775.084, convicted of child abuse as defined in s. 827.03, or  
9 a sexual predator as defined in s. 775.21; has been convicted  
10 of first degree or second degree murder in violation of s.  
11 782.04 or a sexual battery that constitutes a capital, life,  
12 or first degree felony violation of s. 794.011; or has been  
13 convicted of an offense in another jurisdiction which is  
14 substantially similar to one of the offenses listed in this  
15 subparagraph. As used in this section, the term "substantially  
16 similar offense" means any offense that is substantially  
17 similar in elements and penalties to one of those listed in  
18 this subparagraph, and that is in violation of a law of any  
19 other jurisdiction, whether that of another state, the  
20 District of Columbia, the United States or any possession or  
21 territory thereof, or any foreign jurisdiction; or

22           3. The court determines by clear and convincing  
23 evidence that continuing the parental relationship with the  
24 incarcerated parent would be harmful to the child and, for  
25 this reason, that termination of the parental rights of the  
26 incarcerated parent is in the best interest of the child.

27           ~~(c) The only conduct of a father toward a mother~~  
28 ~~during pregnancy that the court may consider in determining~~  
29 ~~whether the child has been abandoned is conduct that occurred~~  
30 ~~after the father was informed he may be the father of the~~  
31 ~~child or after diligent search and notice as provided in s.~~

1 ~~63.088 have been made to inform the father that he is, or may~~  
2 ~~be, the father of the child.~~

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

23 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING  
24 ADOPTION.--

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

28 (b) Within 7 days ~~24 hours~~ after filing, the court  
29 shall mail a copy of the judgment to the department, ~~the~~  
30 ~~petitioner, those persons required to give consent under s.~~

31

1 ~~63.062, and the respondent~~ . The clerk shall execute a  
2 certificate of such ~~each~~ mailing.

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

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

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

28 (c) At the preliminary hearing, the court, upon the  
29 motion of any party or upon its own motion, may order  
30 scientific testing to determine the paternity of the minor if  
31 the person seeking to set aside the judgment is alleging to be



1 the child's father and that fact has not previously been  
2 determined by legitimacy or scientific testing. The court may  
3 order ~~supervised~~ visitation with a person for whom scientific  
4 testing for paternity has been ordered and who has previously  
5 established a bonded relationship with the child. ~~Such~~  
6 ~~visitation shall be conditioned upon the filing of those test~~  
7 ~~results with the court and such results establishing that~~  
8 ~~person's paternity of the minor.~~

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

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

22 Section 20. Section 63.092, Florida Statutes, is  
23 amended to read:

24 63.092 Report to the court of intended placement by an  
25 adoption entity; at-risk placement; preliminary study.--

26 (1) REPORT TO THE COURT.--The adoption entity must  
27 report any intended placement of a minor for adoption with any  
28 person who is not a relative ~~related within the third degree~~  
29 or a stepparent if the adoption entity has knowledge of, or  
30 participates in, such intended placement. The report must be  
31

1 made to the court before the minor is placed in the home or  
2 within 48 hours thereafter.

3 (2) AT-RISK PLACEMENT.--If the minor is placed in the  
4 prospective adoptive home before the parental rights of the  
5 minor's parents are terminated under s. 63.089, the placement  
6 is an at-risk placement. If the placement is an at-risk  
7 placement, the prospective adoptive parents must acknowledge  
8 in writing before the minor may be placed in the prospective  
9 adoptive home that the placement is at risk. The prospective  
10 adoptive parents shall be advised by the adoption entity, in  
11 writing, and that the minor is subject to removal from the  
12 prospective adoptive home by the adoption entity or by court  
13 order at any time prior to the finalization of the adoption.

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

1 61.20(2), in the county where the prospective adoptive parents  
2 reside. The preliminary home study must be made to determine  
3 the suitability of the intended adoptive parents and may be  
4 completed prior to identification of a prospective adoptive  
5 minor. A favorable preliminary home study is valid for 1 year  
6 after the date of its completion. Upon its completion, a copy  
7 of the home study must be provided to the intended adoptive  
8 parents who were the subject of the home study. A minor may  
9 not be placed in an intended adoptive home before a favorable  
10 preliminary home study is completed unless the adoptive home  
11 is also a licensed foster home under s. 409.175. The  
12 preliminary home study must include, at a minimum:

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

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

18 (c) An assessment of the physical environment of the  
19 home;

20 (d) A determination of the financial security of the  
21 intended adoptive parents;

22 (e) Documentation of counseling and education of the  
23 intended adoptive parents on adoptive parenting;

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

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

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

1  
2           If the preliminary home study is favorable, a minor may  
3 be placed in the home pending entry of the judgment of  
4 adoption. A minor may not be placed in the home if the  
5 preliminary home study is unfavorable. If the preliminary  
6 home study is unfavorable, the adoption entity may, within 20  
7 days after receipt of a copy of the written recommendation,  
8 petition the court to determine the suitability of the  
9 intended adoptive home. A determination as to suitability  
10 under this subsection does not act as a presumption of  
11 suitability at the final hearing. In determining the  
12 suitability of the intended adoptive home, the court must  
13 consider the totality of the circumstances in the home. No  
14 minor may be placed in a home in which there resides any  
15 person determined by the court to be a sexual predator as  
16 defined in s. 775.21 or to have been convicted of an offense  
17 listed in s. 63.089(4)(b)2.

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

20           63.097 Fees.--

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

24           (a) Reasonable living expenses of the birth mother  
25 which the birth mother is unable to pay due to unemployment,  
26 underemployment, or disability ~~due to the pregnancy which is~~  
27 ~~certified by a medical professional who has examined the birth~~  
28 ~~mother, or any other disability defined in s. 110.215.~~

29 Reasonable living expenses are rent, utilities, basic  
30 telephone service, food, toiletries, necessary clothing,  
31 transportation, insurance, and expenses found by the court to

1 be necessary for the health and well-being of the birth mother  
2 and the unborn child. Such expenses may be paid during the  
3 pregnancy and for a period of up to 6 weeks postpartum.

4 (b) Reasonable and necessary medical expenses. Such  
5 expenses may be paid during the pregnancy and for a period of  
6 up to 6 weeks postpartum.

7 (c) Expenses necessary to comply with the requirements  
8 of this chapter, including, but not limited to, service of  
9 process under s. 63.088, investigator fees, a diligent search  
10 under s. 63.088, a preliminary home study under s. 63.092, and  
11 a final home investigation under s. 63.125.

12 (d) Court filing expenses, court costs, and other  
13 litigation expenses and birth certificate and medical record  
14 expenses.

15 (e) Costs associated with advertising under s.  
16 63.212(1)(g).

17 (f) The following professional fees:

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

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

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

9           (3) ~~Prior~~ Approval of the court is not required until  
10 the ~~cumulative~~ total of amounts permitted under subsection (2)  
11 exceeds:

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

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

14           (c) \$5,000~~\$3,000~~ in reasonable and necessary living  
15 and medical expenses; ~~or~~

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

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

22           (a) Any fee or expense that constitutes payment for  
23 locating a minor for adoption.

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

27           (c) Any fee on the affidavit which does not specify  
28 the service that was provided and for which the fee is being  
29 charged, such as a fee for facilitation, acquisition, or other  
30 similar service, or which does not identify the date the  
31 service was provided, the time required to provide the

1 service, the person or entity providing the service, and the  
2 hourly fee charged.

3 (6) Unless otherwise indicated in this section, when  
4 an adoption entity uses the services of a licensed  
5 child-placing agency, a professional, any other person or  
6 agency pursuant to s. 63.092, or, if necessary, the  
7 department, the person seeking to adopt the child must pay the  
8 licensed child-placing agency, professional, other person or  
9 agency, or the department an amount equal to the cost of all  
10 services performed, including, but not limited to, the cost of  
11 conducting the preliminary home study, counseling, and the  
12 final home investigation. ~~The court, upon a finding that the~~  
13 ~~person seeking to adopt the child is financially unable to pay~~  
14 ~~that amount, may order that such person pay a lesser amount.~~

15 Section 22. Section 63.102, Florida Statutes, is  
16 amended to read:

17 63.102 Filing of petition for adoption or declaratory  
18 statement; venue; proceeding for approval of fees and costs.--

19 (1) PETITION FOR ADOPTION.--A petition for adoption  
20 may not be filed until ~~30 days~~ after the date of the entry of  
21 the judgment terminating parental rights pending adoption  
22 under this chapter, unless the adoptee is an adult, the  
23 petitioner is a stepparent or a relative, or the minor has  
24 been the subject of a judgment terminating parental rights  
25 under chapter 39. After a judgment terminating parental rights  
26 has been entered, a proceeding for adoption may be commenced  
27 by filing a petition entitled, "In the Matter of the Adoption  
28 of \_\_\_\_" in the circuit court. The person to be adopted shall  
29 be designated in the caption in the name by which he or she is  
30 to be known if the petition is granted. Any name by which the

31

1 minor was previously known may not be disclosed in the  
2 petition, the notice of hearing, or the judgment of adoption.

3 (2) VENUE.--A petition for adoption or for a  
4 declaratory statement as to the adoption contract shall be  
5 filed in the county where the petition for termination of  
6 parental rights was granted, unless the court, in accordance  
7 with s. 47.122, changes the venue to the county where the  
8 petitioner or petitioners or the minor resides or where the  
9 adoption entity with which the minor has been placed is  
10 located. The circuit court in this state must retain  
11 jurisdiction over the matter until a final judgment is entered  
12 on the adoption. The Uniform Child Custody Jurisdiction Act  
13 does not apply until a final judgment is entered on the  
14 adoption.

15 (3) FILING OF ADOPTION PETITION REQUIRED.--Unless  
16 leave of court is granted for good cause shown, a petition for  
17 adoption shall be filed not later than 60 days after entry of  
18 the final judgment terminating parental rights.~~Except for~~  
19 ~~adoptions involving placement of a minor with a relative~~  
20 ~~within the third degree of consanguinity, a petition for~~  
21 ~~adoption in an adoption handled by an adoption entity shall be~~  
22 ~~filed within 60 working days after entry of the judgment~~  
23 ~~terminating parental rights. If no petition is filed within~~  
24 ~~60 days, any interested party, including the state, may file~~  
25 ~~an action challenging the prospective adoptive parent's~~  
26 ~~physical custody of the minor.~~

27 (4) CONFIDENTIALITY.--If the filing of the petition  
28 for adoption or for a declaratory statement as to the adoption  
29 contract in the county where the petitioner or minor resides  
30 would tend to endanger the privacy of the petitioner or minor,  
31 the petition for adoption may be filed in a different county,



1 provided the substantive rights of any person will not thereby  
2 be affected.

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

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

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

26 (c) The court may grant ~~prior~~ approval only of fees  
27 and expenses permitted under s. 63.097. A prior approval of  
28 prospective fees and costs shall ~~does not~~ create a presumption  
29 that these items will subsequently be approved by the court  
30 under s. 63.132. The court, under s. 63.132, may order an  
31 adoption entity to refund any amounts ~~amount~~ paid under this

1 subsection that are ~~is~~ subsequently found by the court to be  
2 greater than fees, costs, and expenses actually incurred.

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

7 (e) A declaratory statement as to the adoption  
8 contract, regardless of when filed, shall be consolidated with  
9 any related petition for adoption. The clerk of the court  
10 shall only assess one filing fee that includes the adoption  
11 action, the declaratory statement petition, and the petition  
12 for termination of parental rights.~~When a petition for a~~  
13 ~~declaratory statement as to the adoption contract is filed~~  
14 ~~prior to the commencement of proceedings to terminate parental~~  
15 ~~rights, it must be filed in accordance with the venue~~  
16 ~~requirements for the filing of the petition terminating~~  
17 ~~parental rights under s. 63.087. Pursuant to s. 63.087, a~~  
18 ~~previously filed petition for a declaratory statement filed~~  
19 ~~under this section must be consolidated with a related~~  
20 ~~subsequently filed petition for termination of parental~~  
21 ~~rights. If the petition for declaratory statement is filed~~  
22 ~~after the judgment terminating parental rights has been~~  
23 ~~entered, the action for declaratory statement must be~~  
24 ~~consolidated with any related petition for adoption. Only one~~  
25 ~~filing fee may be assessed for both the adoption and~~  
26 ~~declaratory statement petitions.~~

27 (f) Prior approval of fees and costs by the court does  
28 not obligate the parent to ultimately relinquish the minor for  
29 adoption.

30 (6) STEPCHILD, RELATIVE, AND ADULT  
31 ADOPTIONS.--Petitions for the adoption of a stepchild, a

1 relative, or an adult shall not require the filing of a  
2 separate judgment or separate proceeding terminating parental  
3 rights pending adoption. The final judgment of adoption shall  
4 have the effect of terminating parental rights simultaneously  
5 with the granting of the decree of adoption.

6 Section 23. Section 63.112, Florida Statutes, is  
7 amended to read:

8 63.112 Petition for adoption; description; report or  
9 recommendation, exceptions; mailing.--

10 (1) ~~A sufficient number of copies of~~ The petition for  
11 adoption shall be signed and verified by the petitioner and  
12 filed with the clerk of the court ~~so that service may be made~~  
13 ~~under subsection (4)~~ and shall state:

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

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

17 (c) The date petitioner acquired custody of the minor  
18 and the name of the adoption entity ~~person~~ placing the minor,  
19 if any;

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

22 (e) The marital status of the petitioner, including  
23 the date and place of marriage, if married, and divorces, if  
24 applicable to the adoption by a stepparent ~~any~~;

25 (f) A statement that the petitioner is able to provide  
26 for the material needs of the child ~~The facilities and~~  
27 ~~resources of the petitioner, including those under a subsidy~~  
28 ~~agreement, available to provide for the care of the minor to~~  
29 ~~be adopted~~;

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

1           (h) The case style and date of entry of the judgment  
2 terminating parental rights or, if the adoptee is an adult or  
3 a minor relative or a stepchild of the petitioner, the  
4 address, if known, of any person whose consent to the adoption  
5 is required and, if such person has not consented, the facts  
6 or circumstances that excuse the lack of consent to justify a  
7 termination of parental rights; and

8           (i) The reasons why the petitioner desires to adopt  
9 the person.

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

12           (a) A certified copy of the court judgment terminating  
13 parental rights under chapter 39 or under this chapter or, if  
14 the adoptee is an adult or a minor relative or stepchild of  
15 the petitioner, the required consent, unless such consent is  
16 excused by the court.

17           (b) The favorable preliminary home study of the  
18 department, licensed child-placing agency, or professional  
19 pursuant to s. 63.092, as to the suitability of the home in  
20 which the minor has been placed, unless the petitioner is a  
21 stepparent or a relative.

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

24           (d) ~~The surrender document must include~~ Documentation  
25 that an interview was held with the minor, if older than 12  
26 years of age, unless the court, in the best interest of the  
27 minor, dispenses with the minor's consent under s.  
28 63.062(1)(c)~~(g)~~.

29           (3) Unless ordered by the court, no report or  
30 recommendation is required when the placement is a stepparent  
31 adoption or an adult adoption or when the minor is a relative

1 ~~of related to~~ one of the adoptive parents ~~within the third~~  
2 degree.

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

7 Section 24. Section 63.122, Florida Statutes, is  
8 amended to read:

9 63.122 Notice of hearing on petition.--

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

26 (2) Notice of hearing must be given as prescribed by  
27 the Florida Rules of Civil Procedure, and service of process  
28 must be made as specified by law for civil actions.

29 (3) Upon a showing by the petitioner that the safety  
30 and welfare ~~privacy~~ of the petitioner or minor may be  
31 endangered, the court may order the names of the petitioner or

1 minor, or both, to be deleted from the notice of hearing and  
2 from the copy of the petition attached thereto, provided the  
3 substantive rights of any person will not thereby be affected.

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

6 (5) After filing the petition to adopt an adult, ~~a~~  
7 ~~notice of the time and place of the hearing must be given to~~  
8 ~~any person whose consent to the adoption is required but who~~  
9 ~~has not consented.~~ the court may order an appropriate  
10 investigation to assist in determining whether the adoption is  
11 in the best interest of the persons involved and is in  
12 accordance with state law.

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

15 63.125 Final home investigation.--

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

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

23 63.132 Affidavit of expenses and receipts.--

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

28 (a) The affidavit must be signed by the adoption  
29 entity and the prospective adoptive parents. A copy of the  
30 affidavit must be provided to the adoptive parents at the time  
31 the affidavit is executed.

1           (b) The affidavit must itemize all disbursements and  
2 receipts of anything of value, including professional and  
3 legal fees, made or agreed to be made by or on behalf of the  
4 prospective adoptive parent and any adoption entity in  
5 connection with the adoption or in connection with any prior  
6 proceeding to terminate parental rights which involved the  
7 minor who is the subject of the petition for adoption. The  
8 affidavit must also include, for each legal or counseling fee  
9 itemized, the service provided for which the fee is being  
10 charged, the date the service was provided, the time required  
11 to provide the service if the service was charged by the hour,  
12 the person or entity that provided the service, and the hourly  
13 fee charged.

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

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

18           1. The birth of the minor.  
19           2. The placement of the minor with the petitioner.  
20           3. The medical or hospital care received by the mother  
21 or by the minor during the mother's prenatal care and  
22 confinement.

23           4. The living expenses of the birth mother. The living  
24 expenses must be itemized ~~documented~~ in detail to apprise the  
25 court of the exact expenses incurred.

26           5. The services relating to the adoption or to the  
27 placement of the minor for adoption that were received by or  
28 on behalf of the petitioner, the adoption entity, either  
29 parent, the minor, or any other person.  
30  
31

1           The affidavit must state whether any of these expenses  
2 were paid for by collateral sources, including, but not  
3 limited to, health insurance, Medicaid, Medicare, or public  
4 assistance.

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

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

10           63.135 Information under oath to be submitted to the  
11 court.--

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

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

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

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

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

31           63.142 Hearing; judgment of adoption.--



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

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

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

9           (4) JUDGMENT.--At the conclusion of the hearing, after  
10 the court determines that the date for a parent to file an  
11 appeal of a valid judgment terminating that parent's parental  
12 rights has passed and no appeal, pursuant to the Florida Rules  
13 of Appellate Procedure, is pending and that the adoption is in  
14 the best interest of the person to be adopted, a judgment of  
15 adoption shall be entered.

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

30           ~~(b)~~ ~~Except upon good cause shown, no later than 30~~  
31 ~~days after the filing of a motion under this subsection, the~~

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

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

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

26 Section 29. Section 63.152, Florida Statutes, is  
27 amended to read:

28 63.152 Application for new birth record.--Within 30  
29 days after entry of a judgment of adoption, the clerk of the  
30 court, and in agency adoptions, any child-placing agency  
31 licensed by the department, shall transmit ~~prepare~~ a certified

1 statement of the entry to ~~for~~ the state registrar of vital  
2 statistics on a form provided by the registrar. A new birth  
3 record containing the necessary information supplied by the  
4 certificate shall be issued by the registrar on application of  
5 the adopting parents or the adopted person.

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

8 63.162 Hearings and records in adoption proceedings;  
9 confidential nature.--

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

1 adoption. This subsection does not prohibit the department  
2 from inspecting and copying any official record pertaining to  
3 the adoption that is maintained by the department or from  
4 inspecting and copying any of the official records maintained  
5 by an agency licensed by the department and does not prohibit  
6 an agency from inspecting and copying any official record  
7 pertaining to the adoption that is maintained by that agency.

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

10 63.167 State adoption information center.--

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

18 Section 32. Section 63.182, Florida Statutes, is  
19 amended to read:

20 63.182 Statute of repose.--Notwithstanding s. 95.031  
21 or s. 95.11 or any other statute, ~~+~~

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

28 ~~(2) An action or proceeding of any kind to vacate, set~~  
29 ~~aside, or otherwise nullify a judgment of adoption or an~~  
30 ~~underlying judgment terminating parental rights on grounds of~~  
31

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

3 Section 33. Section 63.185, Florida Statutes, is  
4 repealed.

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

7 63.207 Out-of-state placement.--

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

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

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

1 ~~the adoption entity to contempt of court and to the penalties~~  
2 ~~provided in s. 63.212.~~

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

5 63.212 Prohibited acts; penalties for violation~~+~~  
6 ~~preplanned adoption agreement.--~~

7 (1) It is unlawful for any person:

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

16 (b) Except an adoption entity, to place or attempt to  
17 place within the state a minor for adoption unless the minor  
18 is placed with a relative ~~within the third degree~~ or with a  
19 stepparent. This prohibition, however, does not apply to a  
20 person who is placing or attempting to place a minor for the  
21 purpose of adoption with the adoption entity.

22 (c) To sell or surrender, or to arrange for the sale  
23 or surrender of, a minor to another person for money or  
24 anything of value or to receive such minor child for such  
25 payment or thing of value. If a minor is being adopted by a  
26 relative ~~within the third degree~~ or by a stepparent, or is  
27 being adopted through an adoption entity, this paragraph does  
28 not prohibit the person who is contemplating adopting the  
29 child from paying, under ss. 63.097 and 63.132, the actual  
30 prenatal care and living expenses of the mother of the child  
31 to be adopted, or from paying, under ss. 63.097 and 63.132,

1 the actual living and medical expenses of such mother for a  
2 reasonable time, not to exceed 6 weeks, if medical needs  
3 require such support, after the birth of the minor.

4 (d) Having the rights and duties of a parent with  
5 respect to the care and custody of a minor to assign or  
6 transfer such parental rights for the purpose of, incidental  
7 to, or otherwise connected with, selling or offering to sell  
8 such rights and duties.

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

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

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

23 (h) To contract for the purchase, sale, or transfer of  
24 custody or parental rights in connection with any child, in  
25 connection with any fetus yet unborn, or in connection with  
26 any fetus identified in any way but not yet conceived, in  
27 return for any valuable consideration. Any such contract is  
28 void and unenforceable as against the public policy of this  
29 state. However, fees, costs, and other incidental payments  
30 made in accordance with statutory provisions for adoption,  
31 foster care, and child welfare are permitted, and a person may

1 agree to pay expenses in connection with a preplanned adoption  
2 agreement as specified below, but the payment of such expenses  
3 may not be conditioned upon the transfer of parental  
4 rights. Each petition for adoption which is filed in  
5 connection with a preplanned adoption agreement must clearly  
6 identify the adoption as a preplanned adoption arrangement and  
7 must include a copy of the preplanned adoption agreement for  
8 review by the court.

9 ~~1. Individuals may enter into a preplanned adoption~~  
10 ~~arrangement as specified herein, but such arrangement shall~~  
11 ~~not in any way:~~

12 ~~a. Effect final transfer of custody of a child or~~  
13 ~~final adoption of a child, without review and approval of the~~  
14 ~~department and the court, and without compliance with other~~  
15 ~~applicable provisions of law.~~

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

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

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



1           ~~b. That the volunteer mother agrees to submit to~~  
2 ~~reasonable medical evaluation and treatment and to adhere to~~  
3 ~~reasonable medical instructions about her prenatal health.~~

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

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

21           ~~e. That the intended father and intended mother~~  
22 ~~acknowledge that they may not receive custody or the parental~~  
23 ~~rights under the agreement if the volunteer mother terminates~~  
24 ~~the agreement or if the volunteer mother rescinds her consent~~  
25 ~~to place her child for adoption within 7 days after birth.~~

26           ~~f. That the intended father and intended mother may~~  
27 ~~agree to pay all reasonable legal, medical, psychological, or~~  
28 ~~psychiatric expenses of the volunteer mother related to the~~  
29 ~~preplanned adoption arrangement, and may agree to pay the~~  
30 ~~reasonable living expenses of the volunteer mother. No other~~  
31

1 ~~compensation, whether in cash or in kind, shall be made~~  
2 ~~pursuant to a preplanned adoption arrangement.~~

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

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

11 ~~i. That the agreement may be terminated at any time by~~  
12 ~~any of the parties.~~

13 ~~3. A preplanned adoption agreement shall not contain~~  
14 ~~any provision:~~

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

19 ~~b. Requiring the termination of the volunteer mother's~~  
20 ~~pregnancy.~~

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

27 ~~5. Payment to agents, finders, and intermediaries,~~  
28 ~~including attorneys and physicians, as a finder's fee for~~  
29 ~~finding volunteer mothers or matching a volunteer mother and~~  
30 ~~intended father and intended mother is prohibited. Doctors,~~  
31 ~~psychologists, attorneys, and other professionals may receive~~

1 ~~reasonable compensation for their professional services, such~~  
2 ~~as providing medical services and procedures, legal advice in~~  
3 ~~structuring and negotiating a preplanned adoption agreement,~~  
4 ~~or counseling.~~

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

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

9 ~~b. "Child" means the child or children conceived by~~  
10 ~~means of an insemination that is part of a preplanned adoption~~  
11 ~~arrangement.~~

12 ~~c. "Fertility technique" means artificial~~  
13 ~~embryonation, artificial insemination, whether in vivo or in~~  
14 ~~vitro, egg donation, or embryo adoption.~~

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

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

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

29 ~~g. "Preplanned adoption agreement" means a written~~  
30 ~~agreement among the parties that specifies the intent of the~~  
31 ~~parties as to their rights and responsibilities in the~~

1 ~~preplanned adoption arrangement, consistent with the~~  
2 ~~provisions of this act.~~

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

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

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

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

30 (8) Unless otherwise indicated, a person who willfully  
31 and with criminal intent violates any provision of this

1 section, excluding paragraph (1)(g), commits a felony of the  
2 third degree, punishable as provided in s. 775.082, s.  
3 775.083, or s. 775.084. A person who willfully and with  
4 criminal intent violates paragraph (1)(g) commits a  
5 misdemeanor of the second degree, punishable as provided in s.  
6 775.083; and each day of continuing violation shall be  
7 considered a separate offense.

8 Section 36. Section 63.213, Florida Statutes, is  
9 created to read:

10 63.213 Preplanned adoption agreement.--

11 (1) Individuals may enter into a preplanned adoption  
12 arrangement as specified in this section, but such arrangement  
13 may not in any way:

14 (a) Effect final transfer of custody of a child or  
15 final adoption of a child without review and approval of the  
16 court and without compliance with other applicable provisions  
17 of law.

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

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

26 (a) That the volunteer mother agrees to become  
27 pregnant by the fertility technique specified in the  
28 agreement, to bear the child, and to terminate any parental  
29 rights and responsibilities to the child she might have  
30 through a written consent executed at the same time as the  
31 preplanned adoption agreement, subject to a right of

1 rescission by the volunteer mother any time within 48 hours  
2 after the birth of the child.

3 (b) That the volunteer mother agrees to submit to  
4 reasonable medical evaluation and treatment and to adhere to  
5 reasonable medical instructions about her prenatal health.

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

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

23 (e) That the intended father and intended mother  
24 acknowledge that they may not receive custody or the parental  
25 rights under the agreement if the volunteer mother terminates  
26 the agreement or if the volunteer mother rescinds her consent  
27 to place her child for adoption within 48 hours after birth.

28 (f) That the intended father and intended mother may  
29 agree to pay all reasonable legal, medical, psychological, or  
30 psychiatric expenses of the volunteer mother related to the  
31 preplanned adoption arrangement and may agree to pay the

1 reasonable living expenses and wages lost due to the pregnancy  
2 and birth of the volunteer mother and reasonable compensation  
3 for inconvenience, discomfort, and medical risk. No other  
4 compensation, whether in cash or in kind, shall be made  
5 pursuant to a preplanned adoption arrangement.

6 (g) That the intended father and intended mother agree  
7 to accept custody of and to assert full parental rights and  
8 responsibilities for the child immediately upon the child's  
9 birth, regardless of any impairment to the child.

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

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

16 (3) A preplanned adoption agreement shall not contain  
17 any provision:

18 (a) To reduce any amount paid to the volunteer mother  
19 if the child is stillborn or is born alive but impaired, or to  
20 provide for the payment of a supplement or bonus for any  
21 reason.

22 (b) Requiring the termination of the volunteer  
23 mother's pregnancy.

24 (4) An attorney who represents an intended father and  
25 intended mother or any other attorney with whom that  
26 attorney is associated shall not represent simultaneously a  
27 female who is or proposes to be a volunteer mother in any  
28 matter relating to a preplanned adoption agreement or  
29 preplanned adoption arrangement.

30 (5) Payment to agents, finders, and intermediaries,  
31 including attorneys and physicians, as a finder's fee for

1 finding volunteer mothers or matching a volunteer mother and  
2 intended father and intended mother is prohibited. Doctors,  
3 psychologists, attorneys, and other professionals may receive  
4 reasonable compensation for their professional services, such  
5 as providing medical services and procedures, legal advice in  
6 structuring and negotiating a preplanned adoption agreement,  
7 or counseling.

8 (6) As used in this section, the term:

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

12 (b) "Child" means the child or children conceived by  
13 means of an insemination that is part of a preplanned adoption  
14 arrangement.

15 (c) "Fertility technique" means artificial  
16 embryonation, artificial insemination, whether in vivo or in  
17 vitro, egg donation, or embryo adoption.

18 (d) "Intended father" means a male who, as evidenced  
19 by a preplanned adoption agreement, intends to assert 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 male.

23 (e) "Intended mother" means a female who, as evidenced  
24 by a preplanned adoption agreement, intends to assert the  
25 parental rights and responsibilities for a child conceived  
26 through a fertility technique, regardless of whether the child  
27 is biologically related to the female.

28 (f) "Party" means the intended father, the intended  
29 mother, the volunteer mother, or the volunteer  
30 mother's husband, if she has a husband.

31



1           (g) "Preplanned adoption agreement" means a written  
2 agreement among the parties that specifies the intent of the  
3 parties as to their rights and responsibilities in the  
4 preplanned adoption arrangement, consistent with the  
5 provisions of this section.

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

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

23           Section 37. Section 63.219, Florida Statutes, is  
24 amended to read:

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

31

1 Section 38. Section 63.235, Florida Statutes, is  
2 amended to read:

3 63.235 Petitions filed before October 1, 2003 ~~2001~~;  
4 governing law.--Any petition for adoption filed before October  
5 1, 2003 ~~2001~~, shall be governed by the law in effect at the  
6 time the petition was filed.

7 Section 39. This act shall take effect October 1,  
8 2003.

9  
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
11 COMMITTEE SUBSTITUTE FOR  
12 Senate Bill 2456

13 -Revises a legislative finding to state that both the birth  
14 mother and birth father have a right of privacy.

15 -Adds a category of legal fathers whose consents to adoption  
16 are required to include those fathers whose names appear on a  
17 birth certificate subsequent to the joint execution by the  
18 birth mother and the father of an affidavit of paternity which  
19 is filed in accordance with chapter 382, F.S.

20 -Removes provisions relating to confidentiality and exemption  
21 from public disclosure of public records as to information  
22 contained in the Putative Father Registry and exceptions  
23 thereto.  
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