



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

A bill to be entitled

An act relating to adoption; amending s. 63.022, F.S.; providing legislative findings and intent with respect to the rights and responsibilities of adoptive children, biological parents, and adoptive parents; providing that certain requirements do not apply to an adoption involving a relative or stepchild; providing legislative intent concerning cooperation between the Department of Children and Family Services and private adoption entities; amending s. 63.032, F.S.; revising definitions; defining the terms "unmarried biological father" and "adoption plan"; amending s. 63.039, F.S.; providing for an award of certain fees and costs in the event of fraud or duress at the discretion of the court; requiring that certain court findings of sanctionable conduct be forwarded to the Office of the Attorney General; amending s. 63.042, F.S.; revising provisions specifying who may adopt; amending s. 63.0423, F.S.; revising references to newborn infants; authorizing a child-placing agency to remove an abandoned infant from a placement under certain circumstances; revising requirements for conducting a diligent search to identify a parent of an abandoned infant; revising certain requirements for the court; revising time periods for providing notice of certain actions; revising the period within which a judgment of termination of parental rights may be voided; amending s. 63.0425, F.S.; revising requirements for notifying a grandparent with whom the child has resided of a hearing on a petition for



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

termination of parental rights; deleting a requirement that the court give first priority for adoption to the grandparent under certain conditions; amending s. 63.0427, F.S.; revising provisions governing a minor's right to communicate with siblings and other relatives; providing for postadoption communication or contact with parents whose parental rights have been terminated; amending s. 63.043, F.S.; deleting provisions prohibiting certain screening or testing for purposes of employment or admission into educational institutions; amending s. 63.052, F.S.; revising provisions specifying the entity that may be the guardian of a minor placed for an adoption; revising the responsibilities and authority of the guardian; creating s. 63.053, F.S.; providing legislative findings with respect to the rights and responsibilities of an unmarried biological father; creating s. 63.054, F.S.; providing requirements for the unmarried biological father to establish parental rights; creating the Florida Putative Father Registry within the Office of Vital Statistics of the Department of Health; providing requirements for registering with the Florida Putative Father Registry; providing requirements for searching the registry; directing the Department of Health to provide for an application and inform the public of the Florida Putative Father Registry; providing for removal of the registrant's name from the registry; providing rulemaking authority; amending s. 63.062, F.S.; revising provisions specifying the persons from whom a consent for



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

adoption is required; providing conditions under which the consent for adoption of an unmarried biological father must be obtained; authorizing the execution of an affidavit of nonpaternity prior to the birth of the child; deleting requirements for a form for the affidavit of nonpaternity; revising the conditions under which a petition to adopt an adult may be granted; revising venue requirements for terminating parental rights; creating s. 63.063, F.S.; providing for the responsibilities of each party pertaining to fraudulent actions; providing requirements for a biological father to contest a termination of parental rights; creating s. 63.064, F.S.; authorizing the court to waive the requirement that consent for adoption be obtained from certain persons; amending s. 63.082, F.S.; revising requirements for executing a consent for adoption and obtaining certain information concerning the child and birth parents; providing for executing an affidavit of nonpaternity prior to the birth of the child; authorizing an adoption entity to intervene as a party in interest under certain circumstances; providing for placement of a minor when the minor is in the custody of the Department of Children and Family Services; revising requirements for withdrawing a consent for adoption; amending s. 63.085, F.S.; revising the requirements for required disclosures by an adoption entity; amending s. 63.087, F.S.; revising provisions governing the proceedings for terminating parental rights pending adoption; revising the venue requirements for



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

filing a petition to terminate parental rights; revising requirements for a petition for terminating parental rights pending adoption; amending s. 63.088, F.S.; providing for limited notice requirements for an unmarried biological father; revising the period within which an inquiry and diligent search must be initiated; revising requirements for notice concerning the termination of parental rights; revising the individuals for whom information regarding identity is required; revising the inquiries required for diligent search; revising requirements for constructive service; amending s. 63.089, F.S.; revising hearing requirements for terminating parental rights; revising conditions under which the court may enter a judgment terminating parental rights; revising conditions for making a finding of abandonment; revising requirements for issuing and voiding a judgment terminating parental rights; amending s. 63.092, F.S.; revising requirements for placing of a minor by an adoption entity; revising requirements for a preliminary home study; amending s. 63.097, F.S.; revising the fees, costs, and expenses that may be assessed by an adoption entity; revising the total of the fees, costs, and expenses for which court approval is required; prohibiting certain fees, costs, and expenses; amending s. 63.102, F.S.; revising the period within which a petition for adoption may be filed; providing for exceptions for adoptions of adults and adoptions by stepparents and relatives; revising requirements pertaining to prior



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

approval of fees and costs; providing for the clerk of the court to charge one filing fee for certain adoption-related actions; amending s. 63.112, F.S.; revising requirements for the petition documents for an adoption; amending s. 63.122, F.S.; providing requirements for the notice of the hearing on the petition for adoption; amending s. 63.125, F.S.; revising the period within which a home investigation report must be filed; amending s. 63.132, F.S.; revising the period within which an affidavit of expenses and receipts must be filed; revising requirements for the affidavit of expenses and receipts; providing an exception for the adoption of a relative or an adult; amending s. 63.135, F.S.; requiring that certain information be provided to the court for all adoption proceedings; amending s. 63.142, F.S.; allowing persons to appear before the court telephonically; revising conditions under which a judgment terminating parental rights is voidable; revising requirements pertaining to the court's consideration of setting aside a judgment terminating parental rights; amending s. 63.152, F.S.; revising the entities responsible for preparing a statement of the adoption for the state registrar of vital statistics; requiring the clerk of the court to transmit the statement of the adoption to the state registrar; amending s. 63.162, F.S.; revising certain notice requirements concerning the disclosure of information pertaining to an adoption; amending s. 63.167, F.S.; authorizing the department to contract with more than one



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

child-placing agency for the operation of a state adoption information center; amending s. 63.182, F.S.; revising the statute of repose to conform to changes made by the act; repealing s. 63.185, F.S., relating to the residency requirement for adoptions; amending s. 63.207, F.S.; providing for the court's jurisdiction with respect to out-of-state placements; amending s. 63.212, F.S.; requiring an out-of-state adoption to be in compliance with the Interstate Compact for the Placement of Children when applicable; deleting certain provisions concerning preplanned adoption agreements; revising acts that are unlawful pertaining to adoptions; creating s. 63.213, F.S.; providing requirements for a preplanned adoption arrangement; providing definitions; amending s. 63.219, F.S.; revising conditions under which the court may sanction an adoption entity; amending s. 63.235, F.S.; providing application; providing an effective date.

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

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

63.022 Legislative intent.--

(1) The Legislature finds that:

(a) The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

in holding parents accountable for meeting the needs of children.

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

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

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

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

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

(3)~~(1)~~ It is the intent of the Legislature to protect and promote the well-being of persons being adopted and their birth



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

and adoptive parents and to provide to all children who can benefit by it a permanent family life, and, whenever appropriate possible, to maintain sibling groups.

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

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

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

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

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

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

(f) All expenditures by adoption entities or adoptive parents relative to the adoption of ~~placing, and persons independently adopting,~~ a minor are reported to the court and become a permanent record in the file of the adoption proceedings, including, but not limited to, all legal fees and



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

costs, all payments to or on behalf of a birth parent, and all payments to or on behalf of the minor.

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

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

country who designate a state other than Florida as their place of residence.

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

prospective adoptive parents by promoting certainty, finality, and permanency for such persons. The adoption entity must:

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

(3) The prevailing party ~~If a person whose consent to an adoption is required under s. 63.062 prevails~~ in an action to



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

set aside a judgment terminating parental rights pending adoption, ~~or a judgment of adoption may be awarded, the court must award~~ reasonable attorney's fees and costs ~~to the prevailing party~~. An award under this subsection must be paid by the adoption entity or by any applicable insurance carrier on behalf of the adoption entity if the court finds that the acts or omissions of the entity were the basis for the court's order granting relief to the prevailing party.

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

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

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

(2) The following persons may adopt:

(a) A husband and wife jointly;

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

(3) The licensed child-placing agency that takes physical custody of the abandoned ~~newborn~~ infant shall, within 24 hours



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

thereafter, ~~immediately~~ request assistance from law enforcement officials to investigate and determine, through the Missing Children Information Clearinghouse, the National Center for Missing and Exploited Children, and any other national and state resources, whether or not the abandoned ~~newborn~~ infant is a missing child.

(4) Within 7 days after accepting physical custody of the abandoned ~~newborn~~ infant, the licensed child-placing agency shall initiate a diligent search to notify and to obtain consent from a parent whose identity is known but whose location is unknown ~~or location is unknown, other than the parent who has left a newborn infant at a hospital, emergency medical services station, or fire station in accordance with s. 383.50.~~ The diligent search must include, at a minimum, inquiries as provided for in s. 63.088 ~~of all known relatives of the parent, inquiries of all offices or program areas of the department likely to have information about the parent, inquiries of other state and federal agencies likely to have information about the parent, inquiries of appropriate utility and postal providers, and inquiries of appropriate law enforcement agencies.~~ Constructive notice must also be provided pursuant to chapter 49 in the county where the ~~newborn~~ infant was abandoned ~~left and in the county where the petition to terminate parental rights will be filed.~~ The constructive notice must include at a minimum, ~~available identifying information, and information on whom a parent must contact in order to assert a claim of parental rights of the newborn infant and how to assert that claim.~~ If a parent is identified and located, notice of the ~~adjudicatory~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

hearing on the petition for termination of parental rights shall be provided. ~~If a parent cannot be identified or located subsequent to the diligent search and constructive notice, the licensed child placing agency shall file an affidavit of diligent search at the same time that the petition to terminate parental rights is filed.~~

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

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

(7) If a claim of parental rights of an abandoned a ~~newborn~~ infant is made before the judgment to terminate parental rights is entered, the circuit court may ~~shall~~ hold the action



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

for termination of parental rights pending subsequent adoption in abeyance for a period of time not to exceed 60 days.

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

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

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

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

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

(9)(a) A judgment terminating parental rights pending adoption is voidable, and any later judgment of adoption of that minor is voidable, if, upon the motion of a birth parent, the court finds that a person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

from exercising his or her parental rights. A motion under this subsection must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time, but not later than 1 year ~~2 years~~ after the entry of the judgment terminating parental rights.

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

~~test results with the court and those results establishing that person's paternity or maternity of the minor.~~

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

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

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

63.0425 Grandparent's right to adopt.--

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

- (a) Any orders of the court pursuant to s. 39.811(7).
- (b) Recommendations of the department, the foster parents if other than the adoptive parents, and the guardian ad litem.
- (c) Statements of the prospective adoptive parents.
- (d) Any other information deemed relevant and material by the court.

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

63.043 Mandatory screening or testing for sickle-cell trait prohibited.--No person, firm, corporation, unincorporated association, state agency, unit of local government, or any public or private entity shall require screening or testing for the sickle-cell trait as a condition ~~for employment, for admission into any state educational institution or state-chartered private educational institution, or for becoming~~



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

eligible for adoption if otherwise eligible for adoption under the laws of this state.

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

63.052 Guardians designated; proof of commitment.--

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

(2) For minors who have been voluntarily surrendered to an intermediary through an execution of a ~~a~~ consent to adoption, the intermediary shall be responsible for the minor until the time a court orders preliminary approval of placement of the minor in the prospective adoptive home, after ~~at~~ which time the prospective adoptive parents shall become guardians pending finalization of adoption, subject to the intermediary's right and responsibility to remove the child from the prospective adoptive home if the removal is deemed by the intermediary to be in the best interest of the child. Prior to the court's entry of an order granting preliminary approval of the placement, the intermediary shall have the responsibility and authority to provide for the needs and welfare of the minor. ~~Until a court has terminated parental rights pending adoption and has ordered~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~preliminary approval of placement of the minor in the adoptive home, the minor must be placed in the care of a relative as defined in s. 39.01, in foster care as defined in s. 39.01, or in the care of a prospective adoptive home. No minor shall be placed in a prospective adoptive home until that home has received a favorable preliminary home study by a licensed child-placing agency, a licensed professional, or an agency, as provided in s. 63.092, within 1 year before such placement in the prospective home. Temporary placement in the prospective home with the prospective adoptive parents does not give rise to a presumption that the parental rights of the parents will subsequently be terminated. For minors who have been placed for adoption with or voluntarily surrendered to an agency, but have not been permanently committed to the agency, the agency shall have the responsibility and authority to provide for the needs and welfare for such minors. For those minors placed for adoption with or voluntarily surrendered to the department, but not permanently committed to the department, the department shall have the responsibility and authority to provide for the needs and welfare for such minors. The adoption entity may authorize all appropriate medical care for a minor who has been placed for adoption with or voluntarily surrendered to the adoption entity. The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.~~

(3) If a minor is surrendered to an adoption entity intermediary for subsequent adoption and a suitable prospective adoptive home is not available pursuant to s. 63.092 at the time



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

the minor is surrendered to the adoption entity ~~intermediary or,~~
~~if the minor is a newborn admitted to a licensed hospital or~~
~~birth center, at the time the minor is discharged from the~~
~~hospital or birth center,~~ the minor must be placed in foster
care or with a relative until such a suitable prospective
adoptive home is available.

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

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

(6) Unless otherwise authorized by law or ordered by the
court, the department is not responsible for expenses incurred



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

by other adoption entities participating in placement of a minor ~~for the purposes of adoption.~~

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

with the available legal steps to substantiate a parental interest.

(2) The Legislature finds that the interests of the state, the mother, the child, and the adoptive parents described in this chapter outweigh the interest of an unmarried biological father who does not take action in a timely manner to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter. An unmarried biological father has the primary responsibility to protect his rights and is presumed to know that his child may be adopted without his consent unless he complies with the provisions of this chapter and demonstrates a prompt and full commitment to his parental responsibilities.

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

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

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

(1) In order to preserve the right to notice and consent to an adoption under this chapter, an unmarried biological father must, as the "registrant," file a notarized claim of paternity form with the Florida Putative Father Registry maintained by the Office of Vital Statistics of the Department of Health and shall include therein confirmation of his willingness and intent to support the child for whom paternity is claimed in accordance with state law. The claim of paternity



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

may be filed at any time prior to the child's birth, but a claim of paternity may not be filed after the date a petition is filed for termination of parental rights.

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

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

(4) Upon initial registration, or at any time thereafter, the registrant may designate an address other than his



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

residential address for sending any communication regarding his registration. Similarly, upon initial registration, or at any time thereafter, the registrant may designate, in writing, an agent or representative to receive any communication on his behalf and receive service of process. The agent or representative must file an acceptance of the designation, in writing, in order to receive notice or service of process. The failure of the designated representative or agent of the registrant to deliver or otherwise notify the registrant of receipt of correspondence from the Florida Putative Father Registry is at the registrant's own risk and shall not serve as a valid defense based upon lack of notice.

(5) The registrant may, at any time prior to the birth of the child for whom paternity is claimed, execute a notarized written revocation of the claim of paternity previously filed with the Florida Putative Father Registry, and upon receipt of such revocation, the claim of paternity shall be deemed null and void. If a court determines that a registrant is not the father of the minor, the court shall order the department to remove the registrant's name from the registry.

(6) It is the obligation of the registrant or, if designated under subsection (4), his designated agent or representative to notify and update the Office of Vital Statistics of any change of address or change in the designation of an agent or representative. The failure of a registrant, or designated agent or representative, to report any such change is at the registrant's own risk and shall not serve as a valid defense based upon lack of notice, unless the person petitioning



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

for termination of parental rights or adoption has actual or constructive notice of the registrant's address and whereabouts from another source.

(7) In each proceeding for termination of parental rights or each adoption proceeding filed under this chapter, the petitioner must contact the Office of Vital Statistics of the Department of Health by submitting an application for a search of the Florida Putative Father Registry. The petitioner shall provide the same information, if known, on the search application form which the registrant is required to furnish under subsection (3). Thereafter, the Office of Vital Statistics must issue a certificate signed by the State Registrar certifying:

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

(11) The Department of Health shall produce and distribute, within existing resources, a pamphlet or publication informing the public about the Florida Putative Father Registry and which is printed in English, Spanish, and Creole. The pamphlet shall indicate the procedures for voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity, and the address of the Florida Putative Father Registry. Such pamphlets or publications shall be made available for distribution at all offices of the Department of Health and



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

the Department of Children and Family Services and shall be included in health class curriculums taught in public and charter schools in this state. The Department of Health shall also provide such pamphlets or publications to hospitals, adoption entities, libraries, medical clinics, schools, universities, and providers of child-related services, upon request. In cooperation with the Department of Highway Safety and Motor Vehicles, each person applying for a Florida driver's license, or renewal thereof, and each person applying for a Florida identification card shall be offered the pamphlet or publication informing the public about the Florida Putative Father Registry.

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

(a) The mother of the minor.

(b) The father of the minor, if:

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

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

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

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

5. In the case of an unmarried biological father, he has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor, has filed such acknowledgement with the Office of Vital Statistics of the Department of Health within the required timeframes, and has complied with the requirements of subsection (2).

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

2. Upon service of a notice of an intended adoption plan or a petition for termination of parental rights pending adoption, executed and filed an affidavit in that proceeding stating that he is personally fully able and willing to take



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

responsibility for the child, setting forth his plans for care of the child, and agreeing to a court order of child support and a contribution to the payment of living and medical expenses incurred for the mother's pregnancy and the child's birth in accordance with his ability to pay.

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

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

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

(3)(a) Pursuant to chapter 48, an adoption entity may serve upon any unmarried biological father identified by the



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

mother or identified by a diligent search of the Florida Putative Father Registry, or upon an entity whose consent is required, a notice of intended adoption plan at any time prior to the placement of the child in the adoptive home, including prior to the birth of the child. The notice of intended adoption plan must specifically state that if the unmarried biological father desires to contest the adoption plan, he must file with the court, within 30 days after service, a verified response that contains a pledge of commitment to the child in substantial compliance with subparagraph (2)(b)2. The notice of intended adoption plan shall notify the unmarried biological father that he must file a claim of paternity form with the Office of Vital Statistics within 30 days after service upon him and must provide the adoption entity with a copy of the verified response filed with the court and the claim of paternity form filed with the Office of Vital Statistics. If the party served with the notice of intended adoption plan is an entity, the entity must file, within 30 days after service, a verified response setting forth a legal basis for contesting the intended adoption plan, specifically addressing the best interest of the child. If the unmarried biological father or entity whose consent is required fails to properly file a verified response with the court and, in the case of an unmarried biological father, a claim of paternity form with the Office of Vital Statistics within 30 days after service upon that unmarried biological father or entity whose consent is required, the consent of that unmarried biological father or entity shall no longer be required under this chapter and that party shall be deemed to have waived any



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

claim of rights to the child. Each notice of intended adoption plan served upon an unmarried biological father must include instructions as to the procedure the unmarried biological father must follow to submit a claim of paternity form to the Office of Vital Statistics and the address to which the registration must be directed.

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

(4)(2) Any person whose consent is required under paragraphs (1)(c)-(e) ~~paragraph (1)(c) or paragraph (1)(d)~~ may execute an irrevocable affidavit of nonpaternity in lieu of a consent under this section and by doing so waives notice to all court proceedings after the date of execution. An affidavit of nonpaternity must be executed as provided in s. 63.082. The



affidavit of nonpaternity may be executed prior to the birth of the child. The person executing the affidavit must receive disclosure under s. 63.085 prior to signing the affidavit.

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

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

~~AFFIDAVIT OF NONPATERNITY~~

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

~~provided the birth mother or her child or unborn child with support of any kind, nor do I intend to do so.~~

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

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

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

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

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

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

~~or~~

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

~~WAIVER OF VENUE~~

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

(2) Any person injured by a fraudulent representation or action in connection with an adoption is entitled to pursue civil or criminal penalties as provided by law. A fraudulent representation is not a defense to compliance with the requirements of this chapter and is not a basis for dismissing a petition for termination of parental rights or a petition for adoption, for vacating an adoption decree, or for granting custody to the offended party. Custody and adoption



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

determinations shall be based on the best interest of the child in accordance with s. 61.13.

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

(3)(a) The department must provide ~~a consent form and a~~ family social and medical history form to an adoption entity that intends to place a child for adoption. Forms containing, at a minimum, the same information as the forms promulgated by the department must be attached to the petition to terminate parental rights pending adoption and must contain ~~such~~ biological and sociological information or ~~such~~ information as to the family medical history, regarding the minor and the parents, ~~as is required by the department.~~ This form is not required for adoptions of relatives, adult adoptions, or adoptions of stepchildren, unless parental rights are being or were terminated pursuant to chapter 39. The information must be filed with the court in the termination of parental rights



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~proceeding incorporated into the final home investigation report specified in s. 63.125.~~

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

(c) When the minor to be adopted is older than 6 months of age at the time of the execution of the consent ~~not placed~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

CONSENT TO ADOPTION

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID, AND BINDING, AND IRREVOCABLE EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES ~~UNLESS WITHDRAWN AS PERMITTED BY LAW~~. IF YOU ARE GIVING UP YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED FOR ADOPTION WITH IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE IMPOSED UPON THE BIRTH MOTHER BEFORE SHE YOU MAY SIGN THE CONSENT FOR ADOPTION. A BIRTH MOTHER YOU MUST WAIT 48 HOURS FROM THE TIME OF BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY SIGN THE CONSENT FOR ADOPTION MAY BE EXECUTED. A BIOLOGICAL FATHER MAY EXECUTE A CONSENT AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT, IT IS VALID, AND BINDING, AND IRREVOCABLE AND CANNOT BE WITHDRAWN



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR ~~UNDER~~
 DURESS.

IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR DURESS
AND YOU WISH TO REVOKE THAT CONSENT ~~IF YOU ARE GIVING UP YOUR~~
~~RIGHTS TO A CHILD WHO IS NOT PLACED FOR ADOPTION UPON THE~~
~~CHILD'S RELEASE FROM A LICENSED HOSPITAL OR BIRTH CENTER~~
~~FOLLOWING BIRTH, YOU MAY SIGN THE CONSENT AT ANY TIME AFTER THE~~
~~BIRTH OF THE CHILD. WHILE THE CONSENT IS VALID AND BINDING WHEN~~
~~SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND. THIS TIME IS CALLED~~
~~THE REVOCATION PERIOD. WHEN THE REVOCATION PERIOD APPLIES, YOU~~
~~MAY WITHDRAW YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR TO~~
~~THE PLACEMENT OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE~~
~~PARENTS, OR IF YOU DO IT WITHIN 3 BUSINESS DAYS AFTER THE DATE~~
~~YOU SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE~~
~~BIRTH MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR BIRTH~~
~~CENTER, WHICHEVER IS LATER.~~

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

1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT
 YOU WISH TO WITHDRAW ~~ARE WITHDRAWING~~ YOUR CONSENT; AND.
2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD
OR DURESS. ~~MAIL THE LETTER AT A UNITED STATES POST OFFICE WITHIN~~
~~3 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE CONSENT OR 1~~
~~BUSINESS DAY AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE FROM~~
~~A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER. THE~~
~~TERM "BUSINESS DAY" MEANS ANY DAY ON WHICH THE UNITED STATES~~
~~POSTAL SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.~~



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

(b) Upon execution of the consent of the birth parent, the adoption entity shall be permitted to intervene in the dependency case as a party in interest and shall provide the court having jurisdiction over the minor pursuant to the shelter or dependency petition filed by the department with a copy of



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study shall be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has intervened pursuant to this section.

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

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

(7)(a) A consent that is being withdrawn under paragraph (4)(c) may be withdrawn at any time prior to the minor's placement with the prospective adoptive parents or by notifying the adoption entity in writing by certified United States mail, return receipt requested, not later than 3 business days after



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

execution of the consent ~~or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later~~. As used in this subsection, the term "business day" means any day on which the United States Postal Service accepts certified mail for delivery.

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

63.085 Disclosure by adoption entity.--

(1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE PARENTS.--Not later than 14 7 days after a person seeking to adopt a minor or a person seeking to place a minor for adoption contacts an adoption entity in person or provides



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

the adoption entity with a mailing address, the entity must provide a written disclosure statement to that person if the entity agrees or continues to work with such person. If an adoption entity is assisting in the effort to terminate the parental rights of a parent who did not initiate the contact with the adoption entity, the written disclosure must be provided within 14 7 days after that parent is identified and located. For purposes of providing the written disclosure, a person is considered to be seeking to place a minor for adoption when that person has sought information or advice from the adoption entity regarding the option of adoptive placement. The written disclosure statement must be in substantially the following form:

ADOPTION DISCLOSURE

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

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

Name: _____

Address: _____

Telephone Number: _____

2. The adoption entity does not provide legal representation or advice to birth parents, and birth parents



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

have the right to consult with an attorney of their own choosing to advise them.

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

~~5. Under section 63.082, Florida Statutes, if the minor is not placed for adoption with the prospective adoptive parent upon release from the hospital or birth center following birth, a 3-day revocation period applies during which consent may be withdrawn for any reason by notifying the adoption entity in writing. In order to withdraw consent, the written withdrawal of consent must be mailed at a United States Post Office no later than 3 business days after execution of the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever occurs later. For purposes of mailing the withdrawal of consent, the term "business day" means any day on which the United States Postal Service accepts certified mail for delivery. The letter must be sent by certified United States mail, return receipt requested. Postal costs must be paid at the time of mailing and the receipt should be retained as proof that consent was withdrawn in a timely manner.~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

~~9. Under section 63.082, Florida Statutes, a person who signs a consent to adoption or an affidavit of nonpaternity must be given reasonable notice of his or her right to select a person who does not have an employment, professional, or personal relationship with the adoption entity or the~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~prospective adoptive parents to be present when the consent or affidavit is executed and to sign the consent or affidavit as a witness.~~

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

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

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

~~13. Under section 63.089, Florida Statutes, a judgment terminating parental rights pending adoption is voidable and any later judgment of adoption of that minor is voidable if, upon the motion of a parent, the court finds that any person~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

~~20. Under section 63.097, Florida Statutes, reasonable living expenses of the birth mother may be paid by the prospective adoptive parents and the adoption entity only if the birth mother is unable to pay due to unemployment, underemployment, or disability. The law also allows payment of reasonable and necessary medical expenses, expenses necessary to comply with the requirements of chapter 63, Florida Statutes, court filing expenses, and costs associated with advertising. Certain documented legal, counseling, and other professional fees may be paid. Prior approval of the court is not required until the cumulative total of amounts permitted exceeds \$2,500 in legal or other fees, \$500 in court costs, \$3,000 in expenses, or \$1,500 in cumulative expenses incurred prior to the date the~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

~~22. Under section 63.132, Florida Statutes, the court order approving the money spent on the adoption must be separate from the judgment making the adoption final. The court may approve only certain costs and expenses allowed under section 63.097, Florida Statutes. The court may approve only fees that are allowed under law and that it finds to be "reasonable." A~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~good idea of what is and is not allowed to be paid for in an adoption can be determined by reading sections 63.097 and 63.132, Florida Statutes.~~

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

- ~~1. At least one parent whose rights are to be terminated resides;~~
- ~~2. At least one parent resided at the time of execution of a consent or affidavit of nonpaternity; or~~
- ~~3. The adoption entity is located, if neither subparagraph 1. nor subparagraph 2. applies.~~

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

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

For purposes of the hearing under this subsection, witnesses located in another jurisdiction may testify by deposition or testify by telephone, audiovisual means, or other electronic means before a designated court or at another location. Documentary evidence transmitted from another location by



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission. The court on its own motion may otherwise prescribe the manner in which and the terms upon which the testimony is taken.

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

1. The minor's name, gender, date of birth, and place of birth. The petition must contain all names by which the minor is or has been known, excluding the minor's prospective adoptive name but including the minor's legal name at the time of the filing of the petition, ~~to allow interested parties to the action, including parents, persons having legal custody of the minor, persons with custodial or visitation rights to the minor, and persons entitled to notice pursuant to the Uniform Child Custody Jurisdiction Act or the Indian Child Welfare Act, to identify their own interest in the action.~~ In the case of an infant child whose adoptive name appears on the original birth certificate, the adoptive name shall not be included in the



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

petition, nor shall it be included elsewhere in the termination of parental rights proceeding.

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

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

~~(6)(7) ANSWER NOT REQUIRED.--An answer to the petition or any pleading requiring an answer shall need not be filed in accordance with the Florida Rules of Civil Procedure by any minor, parent, or person having legal custody of the minor, but any matter that might be set forth in an answer or other pleading may be pleaded orally before the court or filed in writing. However,~~ Failure to file a written response or to appear at the hearing on the petition constitutes grounds upon which the court may terminate parental rights. The petitioner shall provide notice of the final hearing by United States mail to any person who has been served with the summons and petition for termination of parental rights within the specified time periods. Notwithstanding the filing of any answer or any pleading, any person present at the hearing to terminate



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

parental rights pending adoption whose consent to adoption is required under s. 63.062 must:

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

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

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

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

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

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

(2)(1) INITIATE LOCATION AND IDENTIFICATION PROCEDURES.--When the location or identity of a person whose consent to an adoption is required but is not known, the adoption entity must begin the inquiry and diligent search process required by this section within a reasonable time period not later than 7 days after the date on which the person seeking to place a minor for adoption has evidenced in writing to the adoption entity a desire to place the minor for adoption with



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

that entity, or not later than 30 7 days after the date any money is provided as permitted under this chapter by the adoption entity for the benefit of the person seeking to place a minor for adoption.

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

NOTICE OF PETITION AND HEARING
 TO TERMINATE PARENTAL RIGHTS
 PENDING ADOPTION

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

~~you have the right to request that the hearing on the petition to terminate parental rights be transferred to the county in which you reside. You may object by appearing at the hearing or filing a written objection with the court.~~

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

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

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

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

(c) Any man who has adopted the minor;

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

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

An affidavit of diligent search executed by the petitioner and the adoption entity must be filed with the court confirming completion of each aspect of the diligent search enumerated in this subsection and specifying the results. The diligent search



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

required under this subsection may be conducted before the birth of the minor.

~~(6)(5) CONSTRUCTIVE SERVICE LOCATION UNKNOWN OR IDENTITY UNKNOWN~~--This subsection only applies if, as to any person whose consent is required under s. 63.062 and who has not executed a consent to adoption or an affidavit of nonpaternity, the location ~~or identity~~ of the person is unknown and the inquiry under ~~subsection (3)~~ fails to identify the person or the diligent search under subsection (4) fails to locate the person. The unlocated ~~or unidentified~~ person must be served notice under subsection ~~(3)~~ (2) by constructive service in the manner provided in chapter 49 ~~in each county identified in the petition, as provided in s. 63.087(6)~~. The notice shall be published in the county where the person was last known to have resided. The notice, in addition to all information required ~~under in the petition under s. 63.087(6) and chapter 49~~, must include ~~contain~~ a physical description, including, but not limited to, age, race, hair and eye color, and approximate height and weight of the person, minor's mother and of any person the mother reasonably believes may be the father; the minor's date of birth, and the place of birth of the minor. Constructive service by publication shall not be required to provide notice to an identified birth father whose consent is not required pursuant to ss. 63.062 and 63.064; ~~and any date and city, including the county and state in which the city is located, in which conception may have occurred. If any of the facts that must be included in the notice under this subsection~~



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

~~are unknown and cannot be reasonably ascertained, the notice must so state.~~

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

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

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

found by the court to constitute unreasonable withholding of consent.

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

~~made to inform the father that he is, or may be, the father of the child.~~

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

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

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

(b) Within 7 days ~~24 hours~~ after filing, the court shall mail a copy of the judgment to the department, ~~the petitioner,~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~those persons required to give consent under s. 63.062, and the respondent.~~ The clerk shall execute a certificate of such each mailing.

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's father and that fact has not previously been determined by legitimacy or scientific testing. The court may order ~~supervised~~ visitation with a person for whom scientific testing for paternity has been ordered and who has previously established a bonded relationship with the child. ~~Such visitation shall be conditioned upon the filing of those test results with the court and such results establishing that person's paternity of the minor.~~

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

(3) PRELIMINARY HOME STUDY.--Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring agency registered under s. 409.176, a licensed professional, or agency described in s. 61.20(2), unless the adoptee is an adult or the petitioner is a stepparent, ~~a spouse of the parent,~~ or a relative. ~~The preliminary study shall be completed within 30 days after the receipt by the court of the adoption entity's report, but in no event may the minor be placed in the prospective adoptive home prior to the completion of the~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~preliminary study unless ordered by the court.~~ If the adoptee is an adult or the petitioner is a stepparent, ~~a spouse of the parent,~~ or a relative, a ~~the~~ preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, child-caring agency registered under s. 409.176, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive minor. A favorable preliminary home study is valid for 1 year after the date of its completion. Upon its completion, a copy of the home study must be provided to the intended adoptive parents who were the subject of the home study. A minor may not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

- (a) An interview with the intended adoptive parents;
- (b) Records checks of the department's central abuse registry and criminal records correspondence checks pursuant to s. 435.045 through the Department of Law Enforcement on the intended adoptive parents;
- (c) An assessment of the physical environment of the home;
- (d) A determination of the financial security of the intended adoptive parents;



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

63.097 Fees.--

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

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

(f) The following professional fees:

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

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

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

(6) Unless otherwise indicated in this section, when an adoption entity uses the services of a licensed child-placing agency, a professional, any other person or agency pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

study, counseling, and the final home investigation. ~~The court, upon a finding that the person seeking to adopt the child is financially unable to pay that amount, may order that such person pay a lesser amount.~~

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

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

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

(2) VENUE.--A petition for adoption or for a declaratory statement as to the adoption contract shall be filed in the county where the petition for termination of parental rights was granted, unless the court, in accordance with s. 47.122, changes the venue to the county where the petitioner or petitioners or the minor resides or where the adoption entity with which the



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

minor has been placed is located. The circuit court in this state must retain jurisdiction over the matter until a final judgment is entered on the adoption. The Uniform Child Custody Jurisdiction Act does not apply until a final judgment is entered on the adoption.

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

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

(5) PRIOR APPROVAL OF FEES AND COSTS.--A proceeding for prior approval of fees and costs may be commenced any time after an agreement is reached between the birth mother and the adoptive parents by filing a petition for declaratory statement



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the circuit court.

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

(e) A declaratory statement as to the adoption contract, regardless of when filed, shall be consolidated with any related petition for adoption. The clerk of the court shall only assess one filing fee that includes the adoption action, the declaratory statement petition, and the petition for termination of parental rights. ~~When a petition for a declaratory statement as to the adoption contract is filed prior to the commencement of proceedings to terminate parental rights, it must be filed in accordance with the venue requirements for the filing of the petition terminating parental rights under s. 63.087. Pursuant to s. 63.087, a previously filed petition for a declaratory statement filed under this section must be consolidated with a related subsequently filed petition for termination of parental rights. If the petition for declaratory statement is filed after the judgment terminating parental rights has been entered, the action for declaratory statement must be consolidated with any related petition for adoption. Only one filing fee may be assessed for both the adoption and declaratory statement petitions.~~

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

(6) STEPCHILD, RELATIVE, AND ADULT ADOPTIONS.--Petitions for the adoption of a stepchild, a relative, or an adult shall



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

not require the filing of a separate judgment or separate proceeding terminating parental rights pending adoption. The final judgment of adoption shall have the effect of terminating parental rights simultaneously with the granting of the decree of adoption.

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

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

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

- (a) The date and place of birth of the person to be adopted, if known;
- (b) The name to be given to the person to be adopted;
- (c) The date petitioner acquired custody of the minor and the name of the adoption entity ~~person~~ placing the minor, if any;
- (d) The full name, age, and place and duration of residence of the petitioner;
- (e) The marital status of the petitioner, including the date and place of marriage, if married, and divorces, if applicable to the adoption by a stepparent ~~any~~;
- (f) A statement that the petitioner is able to provide for the material needs of the child ~~The facilities and resources of the petitioner, including those under a subsidy agreement, available to provide for the care of the minor to be adopted;~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

(d) ~~The surrender document must include~~ Documentation that an interview was held with the minor, if older than 12 years of



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

age, unless the court, in the best interest of the minor, dispenses with the minor's consent under s. 63.062(1)(c)(g).

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

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

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

63.122 Notice of hearing on petition.--

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

63.125 Final home investigation.--

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

63.132 Affidavit of expenses and receipts.--

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

63.142 Hearing; judgment of adoption.--

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

~~(c) At the preliminary hearing, the court, upon the motion of any party or its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's father and~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~that fact has not previously been determined by legitimacy or scientific testing. The court may order supervised visitation with a person for whom scientific testing for paternity has been ordered. Such visitation shall be conditioned upon the filing of those test results with the court and such results establishing that person's paternity of the minor.~~

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

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

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

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

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

(2) All papers and records pertaining to the adoption, including the original birth certificate, whether part of the permanent record of the court or a file in the office of an



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

adoption entity are confidential and subject to inspection only upon order of the court; however, the petitioner in any proceeding for adoption under this chapter may, at the option of the petitioner, make public the reasons for a denial of the petition for adoption. The order must specify which portion of the records are subject to inspection, and it may exclude the name and identifying information concerning the parent or adoptee. Papers and records of the department, a court, or any other governmental agency, which papers and records relate to adoptions, are exempt from s. 119.07(1). In the case of an adoption not handled by the department or a child-placing agency licensed by the department ~~a nonagency adoption~~, the department must be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. In the case of an agency adoption, the licensed child-placing agency must be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. This subsection does not prohibit the department from inspecting and copying any official record pertaining to the adoption that is maintained by the department or from inspecting and copying any of the official records maintained by an agency licensed by the department and does not prohibit an agency from inspecting and copying any official record pertaining to the adoption that is maintained by that agency.

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

63.167 State adoption information center.--

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

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

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

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

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

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

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

63.207 Out-of-state placement.--



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

(1) It is unlawful for any person:

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

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

(c) To sell or surrender, or to arrange for the sale or surrender of, a minor to another person for money or anything of value or to receive such minor child for such payment or thing of value. If a minor is being adopted by a relative ~~within the third degree~~ or by a stepparent, or is being adopted through an adoption entity, this paragraph does not prohibit the person who is contemplating adopting the child from paying, under ss. 63.097 and 63.132, the actual prenatal care and living expenses of the mother of the child to be adopted, or from paying, under ss. 63.097 and 63.132, the actual living and medical expenses of such mother for a reasonable time, not to exceed 6 weeks, if



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

medical needs require such support, after the birth of the minor.

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

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

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

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

(h) To contract for the purchase, sale, or transfer of custody or parental rights in connection with any child, in connection with any fetus yet unborn, or in connection with any fetus identified in any way but not yet conceived, in return for any valuable consideration. Any such contract is void and unenforceable as against the public policy of this state. However, fees, costs, and other incidental payments made in



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

accordance with statutory provisions for adoption, foster care, and child welfare are permitted, and a person may agree to pay expenses in connection with a preplanned adoption agreement as specified below, but the payment of such expenses may not be conditioned upon the transfer of parental rights. Each petition for adoption which is filed in connection with a preplanned adoption agreement must clearly identify the adoption as a preplanned adoption arrangement and must include a copy of the preplanned adoption agreement for review by the court.

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

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

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

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

~~a. That the volunteer mother agrees to become pregnant by the fertility technique specified in the agreement, to bear the child, and to terminate any parental rights and responsibilities~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~to the child she might have through a written consent executed at the same time as the preplanned adoption agreement, subject to a right of rescission by the volunteer mother any time within 7 days after the birth of the child.~~

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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

~~4. An attorney who represents an intended father and intended mother or any other attorney with whom that attorney is associated shall not represent simultaneously a female who is or proposes to be a volunteer mother in any matter relating to a~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~preplanned adoption agreement or preplanned adoption arrangement.~~

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

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

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

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

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

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

~~e. "Intended mother" means a female who, as evidenced by a preplanned adoption agreement, intends to have the parental~~



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

~~rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the female.~~

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

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

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

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



ENROLLED
 HB 0835, Engrossed 2

2003 Legislature

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

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

(8) Unless otherwise indicated, a person who willfully and with criminal intent violates any provision of this section, excluding paragraph (1)(g), commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who willfully and with criminal intent violates paragraph (1)(g) commits a misdemeanor of the second degree, punishable as provided in s. 775.083; and each day of continuing violation shall be considered a separate offense.

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

63.213 Preplanned adoption agreement.--

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

(h) That the intended father and intended mother shall have the right to specify the blood and tissue typing tests to



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

be performed if the agreement specifies that at least one of them is intended to be the biological parent of the child.

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

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

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

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

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

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



ENROLLED
HB 0835, Engrossed 2

2003 Legislature

63.235 Petitions filed before effective date ~~October 1,~~
2001; governing law.--Any petition for adoption filed before the
effective date of this act ~~October 1, 2001~~, shall be governed by
the law in effect at the time the petition was filed.

Section 39. This act shall take effect upon becoming a
law.