

## CHAMBER ACTION

1 The Future of Florida's Families Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to adoption; amending s. 63.022, F.S.;  
8 providing legislative intent; amending s. 63.032, F.S.;  
9 redefining terms and defining the term "primarily lives  
10 and works in Florida"; amending s. 63.039, F.S.; requiring  
11 an adoption entity to diligently search for a person whose  
12 consent is required for the adoption; amending s. 63.0423,  
13 F.S.; providing that a judgment of adoption is voidable  
14 under certain circumstances if a court finds that a person  
15 whose consent is required gave false information; amending  
16 s. 63.052, F.S.; providing that a court in this state  
17 retains jurisdiction until the adoption is finalized in  
18 this state or in another state; amending s. 63.053, F.S.;  
19 providing that if an unmarried biological father fails to  
20 take the actions that are available to him to establish a  
21 relationship with his child, his parental interest may be  
22 lost entirely; amending s. 63.054, F.S.; providing that if  
23 a putative father fails to report a change of address to

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24 | the Florida Putative Father Registry, the failure is not a  
25 | valid defense based upon lack of notice and the adoption  
26 | entity or adoption petitioner is not obligated to search  
27 | further for the registrant; providing that if a father who  
28 | is required to consent to an adoption does not know the  
29 | county in which the birth mother resides, gave birth, or  
30 | intends to give birth, he may initiate an action in any  
31 | county in the state; amending s. 63.062, F.S.; specifying  
32 | who is required to consent to an adoption; providing that  
33 | an adoption agency may file a notice of an intended  
34 | adoption plan at any time before the birth of the child or  
35 | before placing the child in the adoptive home; requiring  
36 | an adoption entity to make a good faith effort to locate  
37 | the putative father; providing when an adoption entity has  
38 | no further obligation to search for the putative father;  
39 | providing for the proper venue to file a petition to  
40 | terminate parental rights; amending s. 63.064, F.S.;  
41 | providing that a court may waive consent for an adoption  
42 | if the person from whom consent is required has been  
43 | judicially declared incompetent and for whom restoration  
44 | is improbable within a reasonable period of time, taking  
45 | into consideration the best interests of the child;  
46 | amending s. 63.082, F.S.; providing that consent for a  
47 | minor parent who is 14 years of age or younger may be  
48 | witnessed by a stepparent or designated guardian; limiting  
49 | revocation of a consent to adopt to 3 days if the child is  
50 | older than 6 months of age; authorizing a court to  
51 | transfer a child to the prospective adoptive parents under

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52 | certain circumstances; requiring the adoption entity to  
53 | file a petition for adoption or termination of parental  
54 | rights after the transfer of the child; providing  
55 | procedures to follow if a person whose consent is required  
56 | withdraws consent; amending s. 63.085, F.S.; revising  
57 | provision relating to who may sign a valid consent for  
58 | adoption; amending s. 63.087, F.S.; providing procedures  
59 | to terminate parental rights pending an adoption;  
60 | providing jurisdiction of the court; providing the proper  
61 | venue in which to file a petition to terminate parental  
62 | rights; requiring a person to answer the petition and to  
63 | appear at the hearing for termination of parental rights;  
64 | amending s. 63.088, F.S.; requiring the court to conduct  
65 | an inquiry concerning the father of the child who is to be  
66 | adopted; revising requirements for notice concerning the  
67 | termination of parental rights; revising the individuals  
68 | for whom information regarding identity is required;  
69 | requiring persons contacted by a petitioner or adoption  
70 | entity to release certain information; amending s. 63.089,  
71 | F.S.; providing grounds to terminate parental rights;  
72 | providing that a court may terminate the parental rights  
73 | of a person who has been judicially declared incompetent  
74 | and is not likely to fulfill his or her parental  
75 | responsibilities; revising conditions for making a finding  
76 | of abandonment; authorizing the court to order testing to  
77 | determine paternity, under certain circumstances; amending  
78 | s. 63.092, F.S.; providing that if an adoption entity  
79 | fails to file the report of its intended placement within

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80 | the specified time period the failure does not constitute  
81 | grounds to deny the petition for termination of parental  
82 | rights or adoption under certain circumstances;  
83 | identifying additional individuals who may perform a home  
84 | study; providing an exception if the person to be adopted  
85 | is an adult; amending s. 63.097, F.S.; revising the fees,  
86 | costs, and expenses assessed by an adoption entity;  
87 | amending s. 63.102, F.S.; revising procedures for the  
88 | filing of a petition for adoption; providing the proper  
89 | venue where the petition may be filed; providing for an  
90 | approval of fees; amending s. 63.112, F.S.; revising  
91 | language requiring that a certified copy of a judgment  
92 | terminating parental rights be filed at the same time the  
93 | petition is filed; amending s. 63.122, F.S.; providing  
94 | that certain information may be removed from the petition;  
95 | deleting a provision authorizing an investigation relating  
96 | to a petition to adopt an adult; amending s. 63.125, F.S.;  
97 | providing certain licensed professionals may conduct the  
98 | final home investigation; amending s. 63.132, F.S.;  
99 | requiring the adoptive parent and the adoption entity to  
100 | file an affidavit itemizing all expenses and receipts;  
101 | detailing the expenses and receipts that must be in the  
102 | affidavit; providing an exception; amending s. 63.135,  
103 | F.S.; requiring the adoption entity or petitioner to file  
104 | an affidavit under the Uniform Child Custody  
105 | Jurisdictional and Enforcement Act; revising information  
106 | required to be submitted under oath to the court; amending  
107 | s. 63.142, F.S.; requiring that if an adoption petition is

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108 dismissed, any further proceedings regarding the minor be  
 109 brought in a separate custody action under ch. 61, F.S., a  
 110 dependency action under ch. 39, F.S., or a paternity  
 111 action under ch. 742, F.S.; amending s. 63.152, F.S.;  
 112 requiring the clerk of court to transmit a certified  
 113 statement of the adoption to the state where the child was  
 114 born; amending s. 63.162, F.S.; clarifying that the court  
 115 index of adoption files is not a public record and not  
 116 open to public inspection; authorizing the birth parent to  
 117 release his or her name under certain circumstances;  
 118 authorizes a court to permit certain entities to contact a  
 119 birth parent to advise him or her of the adoptee's request  
 120 to open the file or the adoption registry and provide the  
 121 opportunity to waive confidentiality and consent to the  
 122 opening of records; providing requirements for release of  
 123 an original sealed birth certificate; amending s. 63.192,  
 124 F.S.; requiring the courts of this state to recognize  
 125 decrees of termination of parental rights and adoptions  
 126 from other states and countries; amending s. 63.207, F.S.;  
 127 requiring that the interstate compact on adoption be used  
 128 for out-of-state placements for adoption unless excused by  
 129 a court for good cause; amending s. 63.212, F.S.; revising  
 130 acts that are unlawful pertaining to adoptions; providing  
 131 penalties; amending s. 63.213, F.S.; prohibiting an  
 132 attorney from representing the volunteer mother and the  
 133 intended mother in a preplanned adoption arrangement;  
 134 creating s. 63.236, F.S.; providing that any petition for  
 135 termination of parental rights filed before the effective

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136 date of the act is governed by the law in effect at the  
137 time the petition was filed; amending s. 409.166, F.S.;  
138 redefining the term "special needs child" to remove  
139 children of racially mixed parentage; providing for  
140 participation by adoptive intermediaries in the adoption  
141 program for special needs children administered by the  
142 Department of Children and Family Services; amending s.  
143 409.176, F.S.; providing that licensing provisions do not  
144 apply to certain licensed child-placing agencies; amending  
145 s. 742.14, F.S.; providing that the donor of an embryo  
146 relinquishes all parental rights and obligations to the  
147 embryo or the resulting children at the time of the  
148 donation; amending s. 742.15, F.S.; authorizing a  
149 physician in a state outside this state to advise a  
150 commissioning couple concerning a gestational surrogate;  
151 creating s. 742.18, F.S.; prohibiting a person or entity,  
152 except a licensed physician, fertility clinic, or  
153 attorney, from doing certain specified acts; prohibiting a  
154 person other than a licensed physician, fertility clinic,  
155 or attorney from accepting a fee for finding, screening,  
156 matching, or facilitating a donor or gestational carrier  
157 arrangement; providing that if a person willfully violates  
158 the section he or she commits a misdemeanor of the second  
159 degree; providing criminal penalties; providing that if a  
160 person violates the section he or she is liable for  
161 damages caused by his or her acts or omissions and for  
162 reasonable attorney's fees and costs; reenacting ss.  
163 39.01(49), 984.03(39), and 985.03(40), F.S., relating to

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164 the definition of a parent, to incorporate the amendment  
165 made to s. 63.062, F.S., in references thereto; providing  
166 an effective date.

167

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

169

170 Section 1. Paragraph (e) of subsection (4) and subsection  
171 (5) of section 63.022, Florida Statutes, are amended to read:

172 63.022 Legislative intent.--

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

175 (e) A sufficient period of time elapses during which the  
176 minor has lived within the proposed adoptive home under the  
177 guidance of an adoption entity, except stepparent adoptions or  
178 relative adoptions ~~of a relative~~.

179 (5) It is the intent of the Legislature to provide for  
180 cooperation between private adoption entities and the Department  
181 of Children and Family Services in matters relating to permanent  
182 placement options for children in the care of the department  
183 whose parent or legal custodian wishes ~~birth parents wish~~ to  
184 participate in a private adoption plan with a qualified family.

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

187 63.032 Definitions.--As used in this chapter, the term:

188 (1) "Abandoned" means a situation in which the parent or  
189 person having legal custody of a child, while being able, makes  
190 minimal or no provision for the child's support or ~~and~~ makes  
191 minimal ~~little~~ or no effort to communicate with the child, which

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192 situation is sufficient to evince an intent to reject parental  
 193 responsibilities. If, in the opinion of the court, the efforts  
 194 of the ~~such~~ parent or person having legal custody of the child  
 195 to support and communicate with the child are only marginal  
 196 efforts that do not evince a settled purpose to assume all  
 197 parental duties, the court may declare the child to be  
 198 abandoned. In making this decision, the court may consider the  
 199 conduct of a father towards the child's mother during her  
 200 pregnancy.

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

207 (3) "Adoption entity" means the department, an agency, a  
 208 child-caring agency registered under s. 409.176, an  
 209 intermediary, an attorney licensed in another state, or a child-  
 210 placing agency licensed in another state which is placing a  
 211 child from another state into this state ~~qualified by the~~  
 212 ~~department to place children in the State of Florida.~~

213 (4) "Adoption plan" means an arrangement made by a birth  
 214 parent or other individual having a legal right to custody of a  
 215 minor child, born or to be born, with an adoption entity in  
 216 furtherance of placing the minor child for adoption.

217 (5)~~(4)~~ "Adult" means a person who is not a minor.



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218        ~~(6)(5)~~ "Agency" means any child-placing agency licensed by  
219 the department under ~~pursuant to~~ s. 63.202 to place minors for  
220 adoption.

221        ~~(7)(6)~~ "Child" means a son or daughter, whether by birth  
222 or adoption.

223        ~~(8)(7)~~ "Court" means any circuit court of this state and,  
224 when the context requires, the court of any state that is  
225 empowered to grant petitions for adoption.

226        ~~(9)(8)~~ "Department" means the Department of Children and  
227 Family Services.

228        ~~(10)(9)~~ "Intermediary" means an attorney who is licensed  
229 or authorized to practice in this state and who is placing or  
230 intends to place a child for adoption, including placing  
231 children born in another state with citizens of this state or  
232 country or placing children born in this state with citizens of  
233 another state or country.

234        ~~(11)(10)~~ "Legal custody" means a legal status created by  
235 court order or letter of guardianship which vests in a custodian  
236 of the child or guardian, whether an agency or an individual,  
237 the right to have physical custody of the child and the right  
238 and duty to protect, train, and discipline the child and to  
239 provide him or her with food, shelter, education, and ordinary  
240 medical, dental, psychiatric, and psychological care. The legal  
241 custodian is the person or entity in whom the legal right to  
242 custody is vested ~~has the meaning ascribed in s. 39.01.~~

243        ~~(12)(11)~~ "Minor" means a person under the age of 18 years.

244        ~~(13)(12)~~ "Parent" means a woman who gives birth to a child  
245 and a man whose consent to the adoption of the child would be

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246 required under s. 63.062. If a child has been legally adopted,  
 247 the term "parent" means the adoptive mother or father of the  
 248 child. The terms "parent," "mother," and "father" do not include  
 249 an individual whose parental relationship to the child has been  
 250 legally terminated ~~has the same meaning ascribed in s. 39.01.~~

251 ~~(14)(13)~~ "Person" has the same meaning as in s. 1.01  
 252 ~~includes a natural person, corporation, government or~~  
 253 ~~governmental subdivision or agency, business trust, estate,~~  
 254 ~~trust, partnership, or association, and any other legal entity.~~

255 ~~(15)(14)~~ "Relative" means a person related by blood or  
 256 affinity to the person being adopted within the third degree of  
 257 consanguinity.

258 ~~(16)(15)~~ "To place" or "placement" means the process of a  
 259 parent or legal guardian surrendering a child for adoption and  
 260 the prospective adoptive parents receiving and adopting the  
 261 child, and includes all actions by any person or adoption entity  
 262 participating in the process.

263 ~~(17)~~ "Primarily lives and works in Florida" means a person  
 264 who lives and works in this state at least 6 months and 1 day of  
 265 the year, military personnel who designate Florida as their  
 266 place of residence in accordance with the Servicemembers Civil  
 267 Relief Act, Pub. L. No. 108-189, or citizens of the United  
 268 States living in a foreign country who designate Florida as  
 269 their place of residence.

270 ~~(16)~~ ~~"Placement" means the process of a parent or legal~~  
 271 ~~guardian surrendering a child for adoption and the prospective~~  
 272 ~~adoptive parents receiving and adopting the child and all~~

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273 ~~actions by any adoption entity participating in placing the~~  
274 ~~child.~~

275 (18)~~(17)~~ "Primarily lives and works outside Florida" means  
276 a person who lives and works outside this state at least 6  
277 months and 1 day of the year, military personnel who designate a  
278 state other than Florida as their place of residence in  
279 accordance with the Servicemembers Civil Relief Act, Pub. L. No.  
280 108-189 Soldiers' and Sailors' Civil Relief Act of 1940, or  
281 citizens employees of the United States Department of State  
282 living in a foreign country who designate a state other than  
283 Florida as their place of residence.

284 (19)~~(18)~~ "Suitability of the intended placement" includes  
285 the fitness of the intended placement, with primary  
286 consideration being given to the best interest of the child.

287 (20)~~(19)~~ "Unmarried biological father" means the child's  
288 biological father who is not married to the child's mother at  
289 the time of conception or birth of the child and who has not  
290 been declared by a court of competent jurisdiction to be the  
291 legal father of the child.

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

296 Section 3. Paragraphs (f), (g), and (i) of subsection (1)  
297 of section 63.039, Florida Statutes, are amended to read:

298 63.039 Duty of adoption entity to prospective adoptive  
299 parents; sanctions.--

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300 (1) An adoption entity placing a minor for adoption has an  
 301 affirmative duty to follow the requirements of this chapter and  
 302 specifically the following provisions, which protect and promote  
 303 the well-being of persons being adopted and their parents and  
 304 prospective adoptive parents by promoting certainty, finality,  
 305 and permanency for such persons. The adoption entity must:

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

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

313 (i) Obtain the written waiver of venue if applicable  
 314 ~~required~~ under s. 63.062 in cases in which venue for the  
 315 termination of parental rights will be located in a county other  
 316 than the county where a parent whose rights are to be terminated  
 317 resides.

318 Section 4. Subsection (9) of section 63.0423, Florida  
 319 Statutes, is amended to read:

320 63.0423 Procedures with respect to abandoned infants.--

321 (9)(a) A judgment terminating parental rights pending  
 322 adoption involving a minor who was abandoned is voidable, and  
 323 any later judgment of adoption of that minor is voidable, if,  
 324 upon the motion of a ~~birth~~ parent whose consent is required for  
 325 adoption, the court finds that a person knowingly gave false  
 326 information that prevented the ~~birth~~ parent from timely making  
 327 known his or her desire to assume parental responsibilities

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328 | toward the minor or from exercising his or her parental rights.  
 329 | A motion under this subsection must be filed with the court  
 330 | originally entering the judgment. The motion must be filed  
 331 | within a reasonable time, but not later than 1 year after the  
 332 | entry of the judgment terminating parental rights.

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

345 |       (c) At the preliminary hearing, the court, upon the motion  
 346 | of any party or upon its own motion, may order scientific  
 347 | testing to determine the paternity or maternity of the minor if  
 348 | the parent ~~person~~ seeking to set aside the judgment is alleging  
 349 | to be the child's ~~birth~~ parent but has not previously been  
 350 | determined by legal proceedings or scientific testing to be the  
 351 | ~~birth~~ parent. Upon the filing of test results establishing that  
 352 | parent's ~~person's~~ maternity or paternity of the abandoned  
 353 | infant, the court may order visitation as it deems appropriate  
 354 | and in the best interest of the child.

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355 (d) Within 45 days after the preliminary hearing, the  
356 court shall conduct a final hearing on the motion to set aside  
357 the judgment and shall enter its written order as expeditiously  
358 as possible thereafter.

359 Section 5. Subsections (1) and (7) of section 63.052,  
360 Florida Statutes, are amended to read:

361 63.052 Guardians designated; proof of commitment.--

362 (1) For minors who have been placed for adoption with ~~and~~  
363 ~~permanently committed to~~ an adoption entity, other than an  
364 intermediary, such adoption entity shall be the guardian of the  
365 person of the minor and has the responsibility and authority to  
366 provide for the needs and welfare of the minor.

367 (7) The court retains jurisdiction of a minor who has been  
368 placed for adoption until the adoption is finalized within or  
369 outside this state final. After a minor is placed with an  
370 adoption entity or prospective adoptive parent, the court may  
371 review the status of the minor and the progress toward permanent  
372 adoptive placement.

373 Section 6. Subsection (1) of section 63.053, Florida  
374 Statutes, is amended to read:

375 63.053 Rights and responsibilities of an unmarried  
376 biological father; legislative findings.--

377 (1) In enacting ~~the provisions contained in~~ this chapter,  
378 the Legislature prescribes the conditions for determining  
379 whether an unmarried biological father's actions are  
380 sufficiently prompt and substantial so as to require protection  
381 of a constitutional right. If an unmarried biological father  
382 fails to take the actions that are available to him to establish

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383 a relationship with his child, his parental interest may be lost  
384 entirely, ~~or greatly diminished,~~ by his failure to timely comply  
385 with the available legal steps to substantiate a parental  
386 interest.

387 Section 7. Subsections (6), (7), (8), and (13) of section  
388 63.054, Florida Statutes, are amended to read:

389 63.054 Actions required by an unmarried biological father  
390 to establish parental rights; Florida Putative Father  
391 Registry.--

392 (6) It is the obligation of the registrant or, if  
393 designated under subsection (4), his designated agent or  
394 representative to notify and update the Office of Vital  
395 Statistics of any change of address or change in the designation  
396 of an agent or representative. The failure of a registrant, or  
397 designated agent or representative, to report any ~~such~~ change is  
398 at the registrant's own risk and shall not serve as a valid  
399 defense based upon lack of notice, and the adoption entity or  
400 petitioner shall have no further obligation to search for the  
401 registrant unless the person petitioning for termination of  
402 parental rights or adoption has actual ~~or constructive~~ notice of  
403 the registrant's address and whereabouts from another source.

404 (7) In each proceeding for termination of parental rights  
405 or each adoption proceeding in which parental rights are being  
406 terminated simultaneously with entry of the final judgment of  
407 adoption, as in stepparent and relative adoptions filed under  
408 this chapter, the petitioner must contact the Office of Vital  
409 Statistics of the Department of Health by submitting an  
410 application for a search of the Florida Putative Father

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411 Registry. The petitioner shall provide the same information, if  
 412 known, on the search application form which the registrant is  
 413 required to furnish under subsection (3). Thereafter, the Office  
 414 of Vital Statistics must issue a certificate signed by the State  
 415 Registrar certifying:

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

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

424  
 425 The ~~This~~ certificate must be filed with the court in the  
 426 proceeding to terminate parental rights or the adoption  
 427 proceeding. If a termination of parental rights and an adoption  
 428 proceeding are being adjudicated separately ~~simultaneously~~, the  
 429 Florida Putative Father Registry need only be searched once.

430 (8) If an unmarried biological father whose consent to  
 431 adoption is required does not know the county in which the birth  
 432 mother resides, gave birth, or intends to give birth, he may  
 433 initiate an action in any county in the state, in accordance  
 434 with s. 63.087 ~~subject to the birth mother's right to change~~  
 435 ~~venue to the county where she resides.~~

436 (13) The filing of a claim of paternity with the Florida  
 437 Putative Father Registry does not excuse or waive the obligation  
 438 of a petitioner to comply with the requirements for conducting a



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439 diligent search and inquiry with respect to the identity of any  
 440 man whose consent is required under s. 63.062 ~~an unmarried~~  
 441 ~~biological father or legal father which are set forth in this~~  
 442 ~~chapter.~~

443 Section 8. Subsections (1), (2), (3), (4), and (9) of  
 444 section 63.062, Florida Statutes, are amended to read:

445 63.062 Persons required to consent to adoption; affidavit  
 446 of nonpaternity; waiver of venue.--

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

452 (a) The mother of the minor, if her parental rights have  
 453 not been terminated.

454 (b) The father of the minor, if his parental rights have  
 455 not been terminated, if:

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

458 2. The minor is his child by adoption before the filing of  
 459 a petition for termination of parental rights;

460 3. The minor has been established by court proceeding to  
 461 be his child before the filing of a petition for termination of  
 462 parental rights and he has complied with the requirements of  
 463 subsection (2);

464 4. He has filed an affidavit of paternity under ~~pursuant~~  
 465 ~~to~~ s. 382.013(2)(c) before the filing of a petition for

466 termination of parental rights and has complied with the  
 467 requirements of subsection (2); or

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

474 (c) The minor, if 12 years of age or older, unless the  
 475 court in the best interest of the minor dispenses with the  
 476 minor's consent.

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

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

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

486 (a)1. With regard to a child who is placed with adoptive  
 487 parents more than 6 months after the child's birth, an unmarried  
 488 biological father must have developed a substantial relationship  
 489 with the child, taken some measure of responsibility for the  
 490 child and the child's future, and demonstrated a full commitment  
 491 to the responsibilities of parenthood by providing financial  
 492 support to the child in accordance with the unmarried biological  
 493 father's ability, if not prevented from doing so by the person

494 or authorized agency having lawful custody of the child, and  
495 either:

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

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

505 2. The mere fact that an unmarried biological father  
506 expresses a desire to fulfill his responsibilities towards his  
507 child which is unsupported by acts evidencing this intent does  
508 not preclude a finding by the court that the unmarried  
509 biological father failed to comply with the requirements of this  
510 subsection.

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

519 (b) With regard to a child who is younger than 6 months of  
520 age at the time the child is placed with the adoptive parents,  
521 an unmarried biological father must have demonstrated a full

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522 | commitment to his parental responsibility by having performed  
 523 | all of the following acts before ~~prior to~~ the time the mother  
 524 | executes her consent for adoption or a petition for termination  
 525 | of parental rights has been filed, whichever is earlier:

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

532 |       2. Upon service of a notice of an intended adoption plan  
 533 | or a petition for termination of parental rights pending  
 534 | adoption, timely execute ~~executed~~ and file ~~filed~~ an affidavit in  
 535 | that proceeding stating that he is personally fully able and  
 536 | willing to take responsibility for the child, setting forth his  
 537 | plans for care of the child, and agreeing to a court order of  
 538 | child support and a contribution to the payment of living and  
 539 | medical expenses incurred for the mother's pregnancy and the  
 540 | child's birth in accordance with his ability to pay.

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

547 |       (c) The petitioner shall file with the court a certificate  
 548 | from the Office of Vital Statistics stating that a diligent  
 549 | search has been made of the Florida Putative Father Registry of

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550 notices from unmarried biological fathers described in  
551 subparagraph (b)1. and that no filing has been found pertaining  
552 to the father of the child in question or, if a filing is found,  
553 stating the name of the putative father and the time and date of  
554 filing. That certificate shall be filed with the court before  
555 ~~prior to~~ the entry of a final judgment of termination of  
556 parental rights.

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

564 (3)(a) Under ~~Pursuant to~~ chapter 48, an adoption entity  
565 may serve upon any unmarried biological father identified by the  
566 mother or identified by a diligent search of the Florida  
567 Putative Father Registry, or upon an entity whose consent is  
568 required, a notice of intended adoption plan at any time before  
569 the child's birth or before placing ~~prior to the placement of~~  
570 ~~the child in the adoptive home, including prior to the birth of~~  
571 ~~the child~~. The notice of intended adoption plan must  
572 specifically state that if the unmarried biological father  
573 desires to contest the adoption plan, he must file with the  
574 court, within 30 days after service, a verified response that  
575 contains a pledge of commitment to the child in substantial  
576 compliance with subparagraph (2)(b)2. The notice of intended  
577 adoption plan shall notify the unmarried biological father that,

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578 | if he has not already done so, he must file a claim of paternity  
 579 | form with the Office of Vital Statistics within 30 days after  
 580 | service upon him and must provide the adoption entity with a  
 581 | copy of the verified response filed with the court and the claim  
 582 | of paternity form filed with the Office of Vital Statistics. If  
 583 | the party served with the notice of intended adoption plan is an  
 584 | entity, the entity must file, within 30 days after service, a  
 585 | verified response setting forth a legal basis for contesting the  
 586 | intended adoption plan, specifically addressing the best  
 587 | interest of the child. If the adoption entity whose consent is  
 588 | required or the unmarried biological father or entity whose  
 589 | consent is required fails to properly file a verified response  
 590 | with the court and, in the case of an unmarried biological  
 591 | father, a claim of paternity form with the Office of Vital  
 592 | Statistics within 30 days after service upon that unmarried  
 593 | biological father or entity whose consent is required, the  
 594 | consent of that unmarried biological father or entity is not  
 595 | ~~shall no longer be~~ required under this chapter and that party  
 596 | shall be deemed to have irrevocably waived any claim of rights  
 597 | to the child. Each notice of intended adoption plan served upon  
 598 | an unmarried biological father must include instructions as to  
 599 | the procedure the unmarried biological father must follow to  
 600 | submit a claim of paternity form to the Office of Vital  
 601 | Statistics and the address to which the registration must be  
 602 | directed.

603 | ~~(b) If the birth mother identifies a man who she believes~~  
 604 | ~~is the unmarried biological father of her child, the adoption~~  
 605 | ~~entity may provide a notice of intended adoption plan pursuant~~

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606 ~~to paragraph (a).~~ If the mother identifies a potential unmarried  
 607 biological father whose location is unknown, the adoption entity  
 608 who has been retained to terminate any parental rights that  
 609 might be asserted by the person must thereafter make a good  
 610 faith effort to locate him ~~shall conduct a diligent search~~  
 611 ~~pursuant to s. 63.088. If, upon completion of a diligent search,~~  
 612 the potential unmarried biological father's location remains  
 613 unknown and a search of the Florida Putative Father Registry  
 614 fails to provide an address for him ~~reveal a match~~, the adoption  
 615 entity has ~~shall request in the petition for termination of~~  
 616 ~~parental rights pending adoption that the court declare the~~  
 617 ~~diligent search to be in compliance with s. 63.088 and to~~  
 618 ~~further declare that the adoption entity shall have no further~~  
 619 obligation to provide notice to the potential unmarried  
 620 biological father and that the potential unmarried biological  
 621 father's consent to the adoption shall not be required.

622 (4) Any person whose consent is required under paragraph  
 623 (1)(b), or any other man, paragraphs (1)(c)-(e) may execute an  
 624 irrevocable affidavit of nonpaternity in lieu of a consent under  
 625 this section and by doing so waives notice to all court  
 626 proceedings after the date of execution. An affidavit of  
 627 nonpaternity must be executed as provided in s. 63.082. The  
 628 affidavit of nonpaternity may be executed before ~~prior to~~ the  
 629 birth of the child. The person executing the affidavit must  
 630 receive disclosure under s. 63.085 before ~~prior to~~ signing the  
 631 affidavit.

632 (9) A petition for termination of parental rights shall be  
 633 filed in the appropriate county as determined under s.

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634 | 63.087(2). If any ~~the parent or parents~~ whose consent is  
 635 | required objects ~~rights are to be terminated~~ object to venue in  
 636 | the county where the action was filed, the court may transfer  
 637 | venue to a proper venue consistent with this chapter and chapter  
 638 | 47 ~~the action to the county where the objecting parent or~~  
 639 | ~~parents reside~~, unless the objecting parent has previously  
 640 | executed a waiver of venue.

641 | Section 9. Subsection (3) of section 63.064, Florida  
 642 | Statutes, is amended to read:

643 | 63.064 Persons whose consent to an adoption may be  
 644 | waived.--The court may waive the consent of the following  
 645 | individuals to an adoption:

646 | (3) A parent who has been judicially declared incompetent  
 647 | and for whom restoration of competency is medically improbable  
 648 | within a reasonable period of time. The court shall consider the  
 649 | best interests of the child in making this determination.

650 | Section 10. Paragraph (c) of subsection (1), paragraphs  
 651 | (b), (c), and (e) of subsection (4), and subsections (5), (6),  
 652 | and (7) of section 63.082, Florida Statutes, are amended to  
 653 | read:

654 | 63.082 Execution of consent to adoption or affidavit of  
 655 | nonpaternity; family social and medical history; withdrawal of  
 656 | consent.--

657 | (1)

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



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662 (4)  
 663 (b) A consent to the adoption of a minor who is to be  
 664 placed for adoption shall not be executed by the birth mother  
 665 sooner than 48 hours after the minor's birth or the day the  
 666 birth mother has been notified in writing, either on her patient  
 667 chart or in release paperwork, that she is fit to be released  
 668 from the licensed hospital or birth center, whichever is  
 669 earlier. A consent by any man ~~a biological father or legal~~  
 670 ~~father~~ may be executed at any time after the birth of the child.  
 671 A consent executed under this paragraph is valid upon execution  
 672 and may be withdrawn only if the court finds that it was  
 673 obtained by fraud or duress.

674 (c) When the minor to be adopted is older than 6 months of  
 675 age at the time of the execution of the consent, the consent to  
 676 adoption is valid upon execution; however, it is subject to a 3-  
 677 day revocation period ~~or may be revoked at any time prior to the~~  
 678 ~~placement of the minor with the prospective adoptive parents,~~  
 679 ~~whichever is later.~~ If a consent has been executed, this  
 680 subsection may not be construed to provide a birth parent with  
 681 more than 3 days to revoke the consent once the child has been  
 682 placed with the prospective adoptive parents.

683 (e) A consent to adoption being executed by the birth  
 684 parent must be in at least 12-point boldfaced type in  
 685 substantially the following form:

686 CONSENT TO ADOPTION

687  
 688 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT  
 689 HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH

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690 THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE  
 691 PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A  
 692 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE  
 693 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR  
 694 WITNESSES YOU SELECTED, IF ANY.  
 695 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE  
 696 FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS  
 697 CONSENT:

- 698 1. CONSULT WITH AN ATTORNEY;
- 699 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE  
 700 LEGALLY PROHIBITED;
- 701 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR  
 702 FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
- 703 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY  
 704 PROHIBITED; AND
- 705 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE  
 706 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.  
 707 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO  
 708 YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE  
 709 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP  
 710 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED  
 711 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL  
 712 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE  
 713 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT  
 714 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF  
 715 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN  
 716 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT  
 717 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH

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718 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY  
719 BE EXECUTED. ANY MAN ~~A BIOLOGICAL FATHER~~ MAY EXECUTE A CONSENT  
720 AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED  
721 THE CONSENT, IT IS VALID, BINDING, AND IRREVOCABLE AND CANNOT BE  
722 WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR  
723 DURESS.

724 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR DURESS  
725 AND YOU WISH TO REVOKE THAT CONSENT, YOU MUST:

- 726 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT
- 727 YOU WISH TO WITHDRAW YOUR CONSENT; AND
- 728 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD
- 729 OR DURESS.

730  
731 This statement of rights is not required for the adoption of a  
732 relative, an adult, a stepchild, or a child older than 6 months  
733 of age. A consent form for the adoption of a child older than 6  
734 months of age at the time of execution of consent must contain a  
735 statement outlining the revocation rights provided in paragraph  
736 (c).

737 (5) A copy or duplicate original of each consent signed  
738 under this chapter ~~in an action for termination of parental~~  
739 ~~rights pending adoption~~ must be provided to the person who  
740 executed the consent to adoption. The copy must be hand  
741 delivered, with a written acknowledgment of receipt signed by  
742 the person whose consent is required at the time of execution.  
743 If a copy of a consent cannot be provided as required in this  
744 subsection, the adoption entity must execute an affidavit  
745 stating why the copy of the consent was not delivered. The

746 original consent and acknowledgment of receipt, or an affidavit  
 747 stating why the copy of the consent was not delivered, must be  
 748 filed with the petition for termination of parental rights  
 749 pending adoption.

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

756 (b) Upon execution of the consent of the ~~birth~~ parent, the  
 757 adoption entity shall be permitted to intervene in the  
 758 dependency case as a party in interest and shall provide the  
 759 court having jurisdiction over the minor pursuant to the shelter  
 760 or dependency petition filed by the department with a copy of  
 761 the preliminary home study of the prospective adoptive parents  
 762 and any other evidence of the suitability of the placement. The  
 763 preliminary home study shall be maintained with strictest  
 764 confidentiality within the dependency court file and the  
 765 department's file. A preliminary home study must be provided to  
 766 the court in all cases in which an adoption entity has  
 767 intervened under ~~pursuant to~~ this section.

768 (c) Upon a determination by the court that the prospective  
 769 adoptive parents have met the requirements of this chapter ~~are~~  
 770 ~~properly qualified~~ to adopt the minor child and that the  
 771 adoption appears to be in the best interest of the minor child,  
 772 the court shall immediately order the transfer of custody of the  
 773 minor child to the prospective adoptive parents, under the

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774 supervision of the adoption entity. Thereafter, the adoption  
 775 entity must file a petition for termination of parental rights  
 776 or a petition for adoption in the court having jurisdiction over  
 777 child welfare or custody in the county with the appropriate  
 778 venue according to s. 63.087 or s. 63.102. The court having  
 779 jurisdiction over the minor in the dependency proceeding must  
 780 relinquish its jurisdiction to the court where the petition for  
 781 termination of parental rights or the petition for adoption is  
 782 filed. The adoption entity shall thereafter provide monthly  
 783 supervision reports to the court, if required, ~~department~~ until  
 784 finalization of the adoption.

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

793 (7)(a) A consent that is being withdrawn under paragraph  
 794 (4)(c) may be withdrawn ~~at any time prior to the minor's~~  
 795 ~~placement with the prospective adoptive parents or~~ by notifying  
 796 the adoption entity in writing by certified United States mail,  
 797 return receipt requested, not later than 3 business days after  
 798 execution of the consent. As used in this subsection, the term  
 799 "business day" means any day on which the United States Postal  
 800 Service accepts certified mail for delivery.

801           (b) Upon receiving timely written notice from a person  
 802 whose consent to adoption is required, of that person's desire  
 803 to withdraw consent to adoption, the adoption entity must  
 804 contact the prospective adoptive parent to arrange a time  
 805 certain for the adoption entity to regain physical custody of  
 806 the minor, unless, upon a motion for emergency hearing by the  
 807 adoption entity, the court determines in written findings that  
 808 placement of the minor with the person who had legal or physical  
 809 custody of the child immediately before placing the child for  
 810 adoption may not be in the minor's best interest ~~withdrawing~~  
 811 ~~consent may endanger the minor~~, or that the person who desires  
 812 to withdraw consent to the adoption would not be required to  
 813 consent to the adoption or has been determined to have abandoned  
 814 the child, or may otherwise be subject to the consent being  
 815 waived under this chapter.

816           (c) If the court finds that the ~~such~~ placement may  
 817 endanger the minor, the court must enter an order regarding  
 818 continued placement of the minor. The order shall direct  
 819 continued placement with the prospective adoptive parents  
 820 pending further proceedings if they desire continued placement.  
 821 If the prospective adoptive parents do not desire continued  
 822 placement, the order shall include, but not be limited to,  
 823 whether temporary placement in foster care, with the person who  
 824 had legal or physical custody of the child immediately before  
 825 placing the child for adoption, or with a relative is in the  
 826 best interest of the child and is appropriate, whether an  
 827 investigation by the department is recommended, ~~and whether a~~  
 828 ~~relative is available for the temporary placement~~.

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829           (d) If the person withdrawing a required consent claims to  
 830 be the father of the minor but has not been established to be  
 831 the father by marriage, court order, or scientific testing, the  
 832 court may order scientific paternity testing upon a showing that  
 833 the testing is in the best interests of the minor and ~~reserve~~  
 834 ~~ruling on removal of the minor until the results of such testing~~  
 835 ~~have been filed with the court.~~

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

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

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

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857 Section 11. Subsection (1) of section 63.085, Florida  
858 Statutes, is amended to read:

859 63.085 Disclosure by adoption entity.--

860 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE  
861 ADOPTIVE PARENTS.--Not later than 14 days after a person seeking  
862 to adopt a minor or a person seeking to place a minor for  
863 adoption contacts an adoption entity in person or provides the  
864 adoption entity with a mailing address, the entity must provide  
865 a written disclosure statement to that person if the entity  
866 agrees or continues to work with the ~~such~~ person. If an adoption  
867 entity is assisting in the effort to terminate the parental  
868 rights of a parent who did not initiate ~~the~~ contact with the  
869 adoption entity, the written disclosure must be provided within  
870 14 days after that parent is identified and located. For  
871 purposes of providing the written disclosure, a person is  
872 considered to be seeking to place a minor for adoption when that  
873 person has sought information or advice from the adoption entity  
874 regarding the option of adoptive placement. The written  
875 disclosure statement must be in substantially the following  
876 form:

877 ADOPTION DISCLOSURE

878  
879 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL  
880 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR  
881 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING  
882 ADOPTION UNDER FLORIDA LAW:

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



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885 Name:

886 Address:

887 Telephone Number:

888 2. The adoption entity does not provide legal  
889 representation or advice to birth parents, and birth parents  
890 have the right to consult with an attorney of their own choosing  
891 to advise them.

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

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

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

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

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

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

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

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

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

933           Section 12. Section 63.087, Florida Statutes, is amended  
934 to read:

935           63.087 Proceeding to terminate parental rights pending  
936 adoption; general provisions.--

937           (1) JURISDICTION.--A court of this state which is  
938 competent to decide child welfare or custody matters has

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939 jurisdiction to hear all matters arising from a proceeding to  
 940 terminate parental rights pending adoption. A court of this  
 941 state has jurisdiction if the minor is present in this state and  
 942 the parent or guardian has been served with a copy of the  
 943 petition in accordance with subsection (5).

944 (2) VENUE.--

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

- 947 1. In the county where the child resides; or  
 948 2. ~~If the child does not reside in the State of Florida,~~  
 949 In the county where the adoption entity is located. +

- 950 3. ~~In the county where the adoption entity is located; or~~  
 951 4. ~~If neither parent resides in the state, in the county~~  
 952 ~~where the adoption entity is located. The fact of the minor's~~  
 953 ~~presence within the state confers jurisdiction on the court in~~  
 954 ~~proceedings in the minor's case under this chapter, or to a~~  
 955 ~~parent or guardian if due notice has been given.~~

956 (b) If a petition for termination of parental rights has  
 957 been filed and a parent whose consent is required ~~rights are to~~  
 958 ~~be terminated~~ objects to venue, there must be a hearing in which  
 959 the court shall determine whether that parent intends to assert  
 960 legally recognized grounds to contest a termination of parental  
 961 rights and, if so, the court may ~~shall immediately~~ transfer  
 962 venue to a proper venue under this subsection ~~the county where~~  
 963 ~~that parent resides or resided at the time of the execution of~~  
 964 ~~the consent~~. For purposes of selecting venue, the court shall  
 965 consider the ease of access to the court for the parent and the

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966 factors set forth in s. 47.122 ~~who intends to contest a~~  
 967 ~~termination of parental rights.~~

968 (c) If there is a transfer of venue, the court may  
 969 determine which party shall bear the cost of venue transfer.

970  
 971 For purposes of the hearing under this subsection, witnesses  
 972 located in another jurisdiction may testify by deposition or  
 973 testify by telephone, audiovisual means, or other electronic  
 974 means before a designated court or at another location.  
 975 Documentary evidence transmitted from another location by  
 976 technological means that do not produce an original writing may  
 977 not be excluded from evidence on an objection based on the means  
 978 of transmission. The court on its own motion may otherwise  
 979 prescribe the manner in which and the terms upon which the  
 980 testimony is taken.

981 (3) PREREQUISITE FOR ADOPTION.--A petition for adoption  
 982 may not be filed until after the date the court enters the  
 983 judgment terminating parental rights pending adoption ~~under this~~  
 984 ~~chapter or under chapter 39~~. Adoptions of relatives, adult  
 985 adoptions, or adoptions of stepchildren shall not be required to  
 986 file a separate termination of parental rights proceeding  
 987 pending adoption. In such cases, the petitioner may file a joint  
 988 petition for termination of parental rights and adoption  
 989 attaching all required consents, affidavits, notices, and  
 990 acknowledgments ~~shall be attached to the petition for adoption~~  
 991 ~~or filed separately in the adoption proceeding~~. Unless otherwise  
 992 provided by law, this chapter applies to joint petitions.

993 (4) PETITION.--

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

998 (b) The petition may be filed by a parent or person having  
 999 physical or legal custody of the minor. The petition may be  
 1000 filed by an adoption entity only if a parent or person having  
 1001 physical or legal custody who has executed a consent to adoption  
 1002 under ~~pursuant to~~ s. 63.082 also consents in writing to the  
 1003 adoption entity filing the petition. The original of the ~~such~~  
 1004 consent must be filed with the petition.

1005 (c) The petition must be entitled: "In the Matter of the  
 1006 Termination of Parental Rights for the Proposed Adoption of a  
 1007 Minor Child."

1008 (d) The petition to terminate parental rights pending  
 1009 adoption must be in writing and signed by the petitioner under  
 1010 oath stating the petitioner's good faith in filing the petition.  
 1011 A written consent to adoption, affidavit of nonpaternity, or  
 1012 affidavit of diligent search under s. 63.088, for each person  
 1013 whose consent to adoption is required under s. 63.062, must be  
 1014 executed and attached.

1015 (e) The petition must include:

1016 1. The minor's name, gender, date of birth, and place of  
 1017 birth. The petition must contain all names by which the minor is  
 1018 or has been known, excluding the minor's prospective adoptive  
 1019 name but including the minor's legal name at the time of the  
 1020 filing of the petition. In the case of an infant child whose  
 1021 adoptive name appears on the original birth certificate, the

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1022 adoptive name shall not be included in the petition, nor shall  
 1023 it be included elsewhere in the termination of parental rights  
 1024 proceeding unless the proceedings are filed according to s.  
 1025 63.102(6).

1026 2. All information required by the Uniform Child Custody  
 1027 Jurisdiction and Enforcement Act and the Indian Child Welfare  
 1028 Act, except the names and addresses of the adoptive parents.

1029 3. A statement of the grounds under s. 63.089 upon which  
 1030 the petition is based.

1031 4. The name, address, and telephone number of any adoption  
 1032 entity seeking to place the minor for adoption.

1033 5. The name, address, and telephone number of the division  
 1034 of the circuit court in which the petition is to be filed.

1035 6. A certification of compliance with the requirements of  
 1036 s. 63.0425 regarding notice to grandparents of an impending  
 1037 adoption.

1038 (5) SUMMONS TO BE ISSUED.--The petitioner shall cause a  
 1039 summons to be issued substantially in the form provided in Form  
 1040 1.902, Florida Rules of Civil Procedure. The Petition and  
 1041 summons and a copy of the petition shall be served upon any  
 1042 person who executed a ~~whose~~ consent to adoption or affidavit of  
 1043 nonpaternity ~~has been provided~~ but who has not waived service of  
 1044 the pleadings and notice of the hearing thereon and also upon  
 1045 any person whose consent to adoption is required under s.  
 1046 63.062, but who has not provided that consent or an affidavit of  
 1047 nonpaternity.

1048 (6) ANSWER AND APPEARANCE REQUIRED.--An answer to the  
 1049 petition or any pleading requiring an answer shall be timely

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1050 filed in accordance with the Florida Rules of Civil Procedure.  
 1051 Failure to file a written response or to appear at the hearing  
 1052 on the petition constitutes grounds upon which the court may  
 1053 terminate parental rights. Failure to appear at the hearing  
 1054 constitutes grounds upon which the court may terminate parental  
 1055 rights. ~~The petitioner shall provide notice of the final hearing~~  
 1056 ~~by United States mail to any person who has been served with the~~  
 1057 ~~summons and petition for termination of parental rights within~~  
 1058 ~~the specified time periods. Notwithstanding the filing of any~~  
 1059 ~~answer or any pleading,~~ Any person present at the hearing to  
 1060 terminate parental rights pending adoption whose consent to  
 1061 adoption is required under s. 63.062 must:

1062 (a) Be advised by the court that he or she has a right to  
 1063 ask that the hearing be reset for a later date so that the  
 1064 person may consult with an attorney; and

1065 (b) Be given an opportunity to admit or deny the  
 1066 allegations in the petition.

1067 Section 13. Section 63.088, Florida Statutes, is amended  
 1068 to read:

1069 63.088 Proceeding to terminate parental rights pending  
 1070 adoption; notice and service; diligent search.--

1071 (1) NOTICE REQUIRED.--An unmarried biological father, by  
 1072 virtue of the fact that he has engaged in a sexual relationship  
 1073 with a woman, is deemed to be on notice that a pregnancy and an  
 1074 adoption proceeding regarding that child may occur and that he  
 1075 has a duty to protect his own rights and interest. He is,  
 1076 therefore, entitled to notice of a birth or adoption proceeding  
 1077 with regard to that child only as provided in this chapter.

1078           (2) IDENTITY KNOWN AND LOCATION UNKNOWN; PROCEDURES TO  
 1079 INITIATE LOCATION PROCEDURES.--When the location of a person  
 1080 whose consent to an adoption is required but is unknown ~~not~~  
 1081 ~~known~~, the adoption entity must begin the inquiry and diligent  
 1082 search process required by this section within a reasonable time  
 1083 period after the date on which the person seeking to place a  
 1084 minor for adoption has evidenced in writing to the adoption  
 1085 entity a desire to place the minor for adoption with that  
 1086 entity, or not later than 30 days after the date any money is  
 1087 provided as permitted under this chapter by the adoption entity  
 1088 for the benefit of the person seeking to place a minor for  
 1089 adoption.

1090           (3) LOCATION AND IDENTITY KNOWN.--Before the court may  
 1091 determine that a minor is available for adoption, and in  
 1092 addition to the other requirements set forth in this chapter,  
 1093 each person whose consent is required under s. 63.062, who has  
 1094 not executed a consent or an affidavit of nonpaternity, and  
 1095 whose location and identity have been determined by compliance  
 1096 with the procedures in this section must be personally served,  
 1097 under ~~pursuant to~~ chapter 48, at least 20 days before the  
 1098 hearing with a summons and a copy of the petition to terminate  
 1099 parental rights pending adoption as provided in s. 63.087(5) and  
 1100 with notice in substantially the following form:

1101  
 1102                               NOTICE OF PETITION AND HEARING  
 1103                               TO TERMINATE PARENTAL RIGHTS  
 1104                               PENDING ADOPTION  
 1105



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1106 | A petition to terminate parental rights pending adoption  
 1107 | has been filed. A copy of the petition is being served  
 1108 | with this notice. There will be a hearing on the petition  
 1109 | to terminate parental rights pending adoption on (date) at  
 1110 | (time) before (judge) at (location, including complete  
 1111 | name and street address of the courthouse). The court has  
 1112 | set aside (amount of time) for this hearing.

1113 |  
 1114 | UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO TIMELY  
 1115 | FILE A WRITTEN RESPONSE TO THE PETITION AND THIS NOTICE  
 1116 | WITH THE COURT AND ~~OR~~ TO APPEAR AT THIS HEARING  
 1117 | CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY  
 1118 | PARENTAL RIGHTS YOU MAY HAVE OR ASSERT REGARDING THE MINOR  
 1119 | CHILD.

1120 |  
 1121 | (4) REQUIRED INQUIRY.--In proceedings initiated under s.  
 1122 | 63.087, the court must conduct an inquiry of the person who is  
 1123 | placing the minor for adoption and of any relative or person  
 1124 | having legal custody of the minor who is present at the hearing  
 1125 | and likely to have the following information regarding the  
 1126 | identity of the father of the minor, whether his parental rights  
 1127 | have not been previously terminated, and whether:

1128 | (a) The minor was conceived or born while the father was  
 1129 | married to the mother;

1130 | (b) The minor is his child by adoption before the filing  
 1131 | of a petition for termination of parental rights;

1132 | (c) The minor has been established by court proceeding to  
 1133 | be his child before the filing of a petition for termination of

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1134 parental rights, and has complied with the requirements of s.  
1135 63.062(2);

1136 (d) He has filed an affidavit of paternity under s.  
1137 382.013(2) before the filing of a petition for termination of  
1138 parental rights and has complied with the requirements of s.  
1139 63.062(2); or

1140 (e) In the case of an unmarried biological father, he has  
1141 acknowledged in writing, signed in the presence of a competent  
1142 witness, that he is the father of the minor, has filed the  
1143 acknowledgment with the Office of Vital Statistics of the  
1144 Department of Health within the required timeframes, and has  
1145 complied with the requirements of s. 63.062(2).

1146 ~~(a) Any person to whom the mother of the minor was married~~  
1147 ~~at any time when conception of the minor may have occurred or at~~  
1148 ~~the time of the birth of the minor;~~

1149 ~~(b) Any person who has been declared by a court to be the~~  
1150 ~~father of the minor;~~

1151 ~~(c) Any man who has adopted the minor;~~

1152 ~~(d) Any man with whom the mother was cohabiting at any~~  
1153 ~~time when conception of the minor may have occurred; and~~

1154 ~~(e) Any person who has acknowledged or claimed paternity~~  
1155 ~~of the minor.~~

1156  
1157 The information required under this subsection may be provided  
1158 to the court in the form of a sworn affidavit by a person having  
1159 personal knowledge of the facts, addressing each inquiry  
1160 enumerated in this subsection, except that, if the inquiry  
1161 identifies a father under paragraph (a), paragraph (b), or

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1162 paragraph (c), the inquiry shall not continue further. The  
 1163 inquiry required under this subsection may be conducted before  
 1164 the birth of the minor.

1165 (5) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry by  
 1166 the court under subsection (4) identifies any person whose  
 1167 consent to adoption is required under s. 63.062 and who has not  
 1168 executed a consent to adoption or an affidavit of nonpaternity,  
 1169 and the location of the person from whom consent is required is  
 1170 unknown, the adoption entity must conduct a diligent search for  
 1171 that person which must include inquiries concerning:

1172 (a) The person's current address, or any previous address,  
 1173 through an inquiry of the United States Postal Service through  
 1174 the Freedom of Information Act;

1175 (b) The last known employment of the person, including the  
 1176 name and address of the person's employer;

1177 (c) Regulatory agencies, including those regulating  
 1178 licensing in the area where the person last resided;

1179 (d) Names and addresses of relatives to the extent such  
 1180 can be reasonably obtained from the petitioner or other sources,  
 1181 contacts with those relatives, and inquiry as to the person's  
 1182 last known address. The petitioner shall pursue any leads of any  
 1183 addresses to which the person may have moved;

1184 (e) Information as to whether or not the person may have  
 1185 died and, if so, the date and location;

1186 (f) Telephone listings in the area where the person last  
 1187 resided;

1188 (g) Inquiries of law enforcement agencies in the area  
 1189 where the person last resided;

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1190 (h) Highway patrol records in the state where the person  
1191 last resided;

1192 (i) Department of Corrections records in the state where  
1193 the person last resided;

1194 (j) Hospitals in the area where the person last resided;

1195 (k) Records of utility companies, including water, sewer,  
1196 cable television, and electric companies, in the area where the  
1197 person last resided;

1198 (l) Records of the Armed Forces of the United States as to  
1199 whether there is any information as to the person;

1200 (m) Records of the tax assessor and tax collector in the  
1201 area where the person last resided; and

1202 (n) Search of one Internet databank locator service.

1203

1204 Any person contacted by a petitioner or adoption entity when  
1205 requesting information under this subsection must release the  
1206 requested information to the petitioner or adoption entity,  
1207 except when prohibited by law, without the necessity of a  
1208 subpoena or a court order. An affidavit of diligent search  
1209 ~~executed by the petitioner and the adoption entity~~ must be filed  
1210 with the court ~~confirming completion of each aspect of the~~  
1211 ~~diligent search enumerated in this subsection and specifying the~~  
1212 ~~results~~. The diligent search required under this subsection may  
1213 be conducted before the birth of the minor.

1214 (6) CONSTRUCTIVE SERVICE.--This subsection only applies  
1215 if, as to any person whose consent is required under s. 63.062  
1216 and who has not executed a consent to adoption or an affidavit  
1217 of nonpaternity, the location of the person is unknown and the

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1218 inquiry under subsection (4) fails to locate the person. The  
 1219 unlocated person must be served notice under subsection (3) by  
 1220 constructive service in the manner provided in chapter 49. The  
 1221 notice shall be published in the county where the person was  
 1222 last known to have resided. The notice, in addition to all  
 1223 information required under chapter 49, must include a physical  
 1224 description, including, but not limited to, age, race, hair and  
 1225 eye color, and approximate height and weight of the person, the  
 1226 minor's date of birth, and the place of birth of the minor.  
 1227 Constructive service by publication shall not be required to  
 1228 provide notice to an identified birth father whose consent is  
 1229 not required under ~~pursuant to~~ ss. 63.062 and 63.064.

1230 Section 14. Section 63.089, Florida Statutes, is amended  
 1231 to read:

1232 63.089 Proceeding to terminate parental rights pending  
 1233 adoption; hearing; grounds; dismissal of petition; judgment.--

1234 (1) HEARING.--The court may terminate parental rights  
 1235 pending adoption only after a hearing.

1236 (2) HEARING PREREQUISITES.--The court may hold the hearing  
 1237 only when:

1238 (a) For each person whose consent to adoption is required  
 1239 under s. 63.062:

1240 1. A consent under s. 63.082 has been executed and filed  
 1241 with the court;

1242 2. An affidavit of nonpaternity under s. 63.082 has been  
 1243 executed and filed with the court;

1244 3. Notice has been provided under ss. 63.087 and 63.088;

1245 or

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1246 4. The certificate from the Office of Vital Statistics has  
 1247 been provided to the court stating that a diligent search has  
 1248 been made of the Florida Putative Father Registry created in s.  
 1249 63.054 and that no filing has been found pertaining to the  
 1250 father of the child in question or, if a filing is found,  
 1251 stating the name of the putative father and the time and date of  
 1252 the filing.

1253 (b) For each notice and petition that must be served under  
 1254 ss. 63.087 and 63.088:

1255 1. At least 20 days have elapsed since the date of  
 1256 ~~personal~~ service of process and an affidavit of service has been  
 1257 filed with the court;

1258 2. At least 30 days have elapsed since the first date of  
 1259 publication of constructive service and an affidavit of service  
 1260 has been filed with the court; or

1261 3. An affidavit of nonpaternity, consent for adoption, or  
 1262 other document that ~~which~~ affirmatively waives service has been  
 1263 executed and filed with the court;

1264 (c) The minor named in the petition has been born; and

1265 (d) The petition contains all information required under  
 1266 s. 63.087 and all affidavits of inquiry, diligent search, and  
 1267 service required under s. 63.088 have been obtained and filed  
 1268 with the court.

1269 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING  
 1270 ADOPTION.--The court may enter a judgment terminating parental  
 1271 rights pending adoption if the court determines by clear and  
 1272 convincing evidence, supported by written findings of fact, that

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1273 | each person whose consent to adoption is required under s.  
1274 | 63.062:

1275 |       (a) Has executed a valid consent under s. 63.082 and the  
1276 | consent was obtained according to the requirements of this  
1277 | chapter;

1278 |       (b) Has executed an affidavit of nonpaternity and the  
1279 | affidavit was obtained according to the requirements of this  
1280 | chapter;

1281 |       (c) Has been served with a notice of the intended adoption  
1282 | plan in accordance with the provisions of s. 63.062(3) and has  
1283 | failed to respond within the designated time period;

1284 |       (d) Has been properly served notice of the proceeding in  
1285 | accordance with the requirements of this chapter and has failed  
1286 | to file a written answer and ~~or~~ appear at the evidentiary  
1287 | hearing resulting in the judgment terminating parental rights  
1288 | pending adoption;

1289 |       (e) Has been properly served notice of the proceeding in  
1290 | accordance with the requirements of this chapter and has been  
1291 | determined under subsection (4) to have abandoned the minor as  
1292 | defined in s. 63.032;

1293 |       (f) Is a parent of the person to be adopted, which parent  
1294 | has been judicially declared incapacitated and for whom ~~with~~  
1295 | restoration of competency to a degree that would enable the  
1296 | parent to fulfill parental responsibilities by providing for the  
1297 | physical and emotional needs of the minor child is found to be  
1298 | medically improbable within a reasonable period of time;

1299 |       (g) Is a person who has legal custody of the person to be  
1300 | adopted, other than a parent, who has failed to respond in

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1301 writing to a request for consent for a period of 60 days or,  
 1302 after examination of his or her written reasons for withholding  
 1303 consent, is found by the court to be withholding his or her  
 1304 consent unreasonably;

1305 (h) Has been properly served notice of the proceeding in  
 1306 accordance with the requirements of this chapter, but has been  
 1307 found by the court, after examining written reasons for the  
 1308 withholding of consent, to be unreasonably withholding his or  
 1309 her consent; or

1310 (i) Is the spouse of the person to be adopted who has  
 1311 failed to consent, and the failure of the spouse to consent to  
 1312 the adoption is excused by reason of prolonged and unexplained  
 1313 absence, unavailability, incapacity, or circumstances that are  
 1314 found by the court to constitute unreasonable withholding of  
 1315 consent.

1316 (4) FINDING OF ABANDONMENT.--A finding of abandonment  
 1317 resulting in a termination of parental rights must be based upon  
 1318 clear and convincing evidence that a parent or person having  
 1319 legal custody has abandoned the child in accordance with the  
 1320 definition contained in s. 63.032(1). A finding of abandonment  
 1321 may be based upon physical or emotional abuse or a refusal or  
 1322 failure to provide reasonable financial support, when able, to a  
 1323 birth mother during her pregnancy. If, in the opinion of the  
 1324 court, the efforts of a parent or person having legal custody of  
 1325 the child to support and communicate with the child are only  
 1326 marginal efforts that do not evince a settled purpose to assume  
 1327 all parental duties, the court may declare the child to be  
 1328 abandoned. In making this decision, the court may consider the



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1329 | conduct of a father toward the child's mother during her  
1330 | pregnancy.

1331 |         (a) In making a determination of abandonment at a hearing  
1332 | for termination of parental rights under ~~pursuant to~~ this  
1333 | chapter, the court must consider, among other relevant factors  
1334 | not inconsistent with this section:

1335 |             1. Whether the actions alleged to constitute abandonment  
1336 | demonstrate a willful disregard for the safety or welfare of the  
1337 | child or unborn child;

1338 |             2. Whether the person alleged to have abandoned the child,  
1339 | while being able, failed to provide financial support;

1340 |             3. Whether the person alleged to have abandoned the child,  
1341 | while being able, failed to pay for medical treatment; and

1342 |             4. Whether the amount of support provided or medical  
1343 | expenses paid was appropriate, taking into consideration the  
1344 | needs of the child and relative means and resources available to  
1345 | the person alleged to have abandoned the child.

1346 |         (b) The child has been abandoned when the parent of a  
1347 | child is incarcerated on or after October 1, 2001, in a state or  
1348 | federal correctional institution and:

1349 |             1. The period of time for which the parent has been or is  
1350 | expected to be incarcerated will constitute a significant  
1351 | ~~substantial~~ portion of the child's minority ~~period of time~~  
1352 | ~~before the child will attain the age of 18 years;~~

1353 |             2. The incarcerated parent has been determined by the  
1354 | court to be a violent career criminal as defined in s. 775.084,  
1355 | a habitual violent felony offender as defined in s. 775.084,  
1356 | convicted of child abuse as defined in s. 827.03, or a sexual

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1357 predator as defined in s. 775.21; has been convicted of first  
 1358 degree or second degree murder in violation of s. 782.04 or a  
 1359 sexual battery that constitutes a capital, life, or first degree  
 1360 felony violation of s. 794.011; or has been convicted of an  
 1361 offense in another jurisdiction which is substantially similar  
 1362 to one of the offenses listed in this subparagraph. As used in  
 1363 this section, the term "substantially similar offense" means any  
 1364 offense that is substantially similar in elements and penalties  
 1365 to one of those listed in this subparagraph, and that is in  
 1366 violation of a law of any other jurisdiction, whether that of  
 1367 another state, the District of Columbia, the United States or  
 1368 any possession or territory thereof, or any foreign  
 1369 jurisdiction; or

1370 3. The court determines by clear and convincing evidence  
 1371 that continuing the parental relationship with the incarcerated  
 1372 parent would be harmful to the child and, for this reason, that  
 1373 termination of the parental rights of the incarcerated parent is  
 1374 in the best interest of the child.

1375 (5) DISMISSAL OF PETITION.--If the court does not find by  
 1376 clear and convincing evidence that parental rights of a parent  
 1377 should be terminated pending adoption, the court must dismiss  
 1378 the petition and that parent's parental rights that were the  
 1379 subject of such petition shall remain in full force under the  
 1380 law. The order must include written findings in support of the  
 1381 dismissal, including findings as to the criteria in subsection  
 1382 (4) if rejecting a claim of abandonment. Parental rights may not  
 1383 be terminated based upon a consent that the court finds has been  
 1384 timely withdrawn under s. 63.082 or a consent to adoption or

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1385 affidavit of nonpaternity that the court finds was obtained by  
 1386 fraud or duress. The court must enter an order based upon  
 1387 written findings providing for the placement of the minor. The  
 1388 court may order scientific testing to determine the paternity of  
 1389 the minor at any time during which the court has jurisdiction  
 1390 over the minor, upon a showing that the testing is in the best  
 1391 interest of the child. Further proceedings, if any, regarding  
 1392 the minor must be brought in a separate custody action under  
 1393 chapter 61, a dependency action under chapter 39, or a paternity  
 1394 action under chapter 742.

1395 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING  
 1396 ADOPTION.--

1397 (a) The judgment terminating parental rights pending  
 1398 adoption must be in writing and contain findings of fact as to  
 1399 the grounds for terminating parental rights pending adoption.

1400 (b) Within 7 days after filing, the court shall mail a  
 1401 copy of the judgment to the department. The clerk shall execute  
 1402 a certificate of the ~~such~~ mailing.

1403 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.--

1404 (a) A motion for relief from a judgment terminating  
 1405 parental rights must be filed with the court originally entering  
 1406 the judgment. The motion must be filed within a reasonable time,  
 1407 but not later than 1 year after the entry of the judgment  
 1408 terminating parental rights.

1409 (b) No later than 30 days after the filing of a motion  
 1410 under this subsection, the court must conduct a preliminary  
 1411 hearing to determine what contact, if any, shall be permitted  
 1412 between a parent and the child pending resolution of the motion.

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1413 | The ~~Such~~ contact shall be considered only if it is requested by  
 1414 | a parent who has appeared at the hearing. If the court orders  
 1415 | contact between a parent and child, the order must be issued in  
 1416 | writing as expeditiously as possible and must state with  
 1417 | specificity the terms ~~any provisions~~ regarding contact with  
 1418 | persons other than those with whom the child resides.

1419 | (c) At the preliminary hearing, the court, upon the motion  
 1420 | of any party or upon its own motion, may order scientific  
 1421 | testing to determine the paternity of the minor if the person  
 1422 | seeking to set aside the judgment is a person whose consent is  
 1423 | required ~~alleging to be the child's father~~ and that fact has not  
 1424 | previously been determined by legitimacy or scientific testing  
 1425 | and the testing is in the child's best interest. The court may  
 1426 | order visitation with a person for whom scientific testing for  
 1427 | paternity has been ordered and who has previously established a  
 1428 | bonded relationship with the child.

1429 | (d) Unless otherwise agreed between the parties or for  
 1430 | good cause shown, the court shall conduct a final hearing on the  
 1431 | motion for relief from judgment within 45 days after the filing  
 1432 | and enter its written order as expeditiously as possible  
 1433 | thereafter.

1434 | (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and  
 1435 | records pertaining to a petition to terminate parental rights  
 1436 | pending adoption are related to the subsequent adoption of the  
 1437 | minor and are subject to ~~the provisions of~~ s. 63.162. The  
 1438 | confidentiality provisions of this chapter do not apply to the  
 1439 | extent information regarding persons or proceedings must be made  
 1440 | available as specified under s. 63.088.

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1441 Section 15. Section 63.092, Florida Statutes, is amended  
1442 to read:

1443 63.092 Report to the court of intended placement by an  
1444 adoption entity; at-risk placement; preliminary study.--

1445 (1) REPORT TO THE COURT.--The adoption entity must report  
1446 any intended placement of a minor for adoption with any person  
1447 who is not a relative or a stepparent if the adoption entity ~~has~~  
1448 ~~knowledge of, or~~ participates in the, such intended placement.  
1449 The report must be made to the court before the minor is placed  
1450 in the home or within 48 hours thereafter. Failure to file the  
1451 report of intended placement within 48 hours does not constitute  
1452 grounds to deny the petition for termination of parental rights  
1453 or adoption if the report is subsequently filed and no party is  
1454 prejudiced by the failure to file the report in a timely manner.

1455 (2) AT-RISK PLACEMENT.--If the minor is placed in the  
1456 prospective adoptive home before the parental rights of the  
1457 minor's parents are terminated under s. 63.089, the placement is  
1458 an at-risk placement. If the placement is an at-risk placement,  
1459 the prospective adoptive parents must acknowledge in writing  
1460 before the minor may be placed in the prospective adoptive home  
1461 that the placement is at risk. The prospective adoptive parents  
1462 shall be advised by the adoption entity, in writing, that the  
1463 minor is subject to removal from the prospective adoptive home  
1464 by the adoption entity or by court order at any time before  
1465 ~~prior to~~ the finalization of the adoption.

1466 (3) PRELIMINARY HOME STUDY.--Before placing the minor in  
1467 the intended adoptive home, a preliminary home study must be  
1468 performed by a licensed child-placing agency, a child-caring

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1469 | agency registered under s. 409.176, a licensed psychologist,  
 1470 | clinical social worker, marriage and family therapist, or mental  
 1471 | health counselor qualified and licensed to perform a home study  
 1472 | in the state or country where the adoptive parent resides  
 1473 | ~~professional, or agency described in s. 61.20(2)~~, unless the  
 1474 | adoptee is an adult or the petitioner is a stepparent or a  
 1475 | relative. If the adoptee is an adult or the petitioner is a  
 1476 | stepparent or a relative, a preliminary home study may be  
 1477 | required by the court for good cause shown to assist in  
 1478 | determining whether the adoption is in the best interest of the  
 1479 | adoptee and is in accordance with state law. The department is  
 1480 | required to perform the preliminary home study only if there is  
 1481 | no licensed child-placing agency, child-caring agency registered  
 1482 | under s. 409.176, licensed professional, or agency described in  
 1483 | s. 61.20(2), in the county where the prospective adoptive  
 1484 | parents reside. The preliminary home study must be made to  
 1485 | determine the suitability of the intended adoptive parents and  
 1486 | may be completed before ~~prior to~~ identification of a prospective  
 1487 | adoptive minor. A favorable preliminary home study is valid for  
 1488 | 1 year after the date of its completion. Upon its completion, a  
 1489 | copy of the home study must be provided to the intended adoptive  
 1490 | parents who were the subject of the home study. Unless a court  
 1491 | approves, a minor may not be placed in an intended adoptive home  
 1492 | before a favorable preliminary home study is completed unless  
 1493 | the adoptive home is also a licensed foster home under s.  
 1494 | 409.175 or the placement is approved by the court. The  
 1495 | preliminary home study must include, at a minimum:

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

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1497 (b) Records checks of the department's central abuse  
 1498 registry and criminal records correspondence checks under  
 1499 ~~pursuant to~~ s. 435.045 through the Department of Law Enforcement  
 1500 on the intended adoptive parents;

1501 (c) An assessment of the physical environment of the home;

1502 (d) A determination of the financial security of the  
 1503 intended adoptive parents;

1504 (e) Documentation of counseling and education of the  
 1505 intended adoptive parents on adoptive parenting;

1506 (f) Documentation that information on adoption and the  
 1507 adoption process has been provided to the intended adoptive  
 1508 parents;

1509 (g) Documentation that information on support services  
 1510 available in the community has been provided to the intended  
 1511 adoptive parents; and

1512 (h) A copy of each prospective adoptive parent's signed  
 1513 acknowledgment of receipt of disclosure required by s. 63.085.

1514  
 1515 If the preliminary home study is favorable, a minor may be  
 1516 placed in the home pending entry of the judgment of adoption. A  
 1517 minor may not be placed in the home if the preliminary home  
 1518 study is unfavorable. If the preliminary home study is  
 1519 unfavorable, the adoption entity may, within 20 days after  
 1520 receipt of a copy of the written recommendation, petition the  
 1521 court to determine the suitability of the intended adoptive  
 1522 home. A determination as to suitability under this subsection  
 1523 does not act as a presumption of suitability at the final  
 1524 hearing. In determining the suitability of the intended adoptive

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1525 | home, the court must consider the totality of the circumstances  
 1526 | in the home. No minor may be placed in a home in which there  
 1527 | resides any person determined by the court to be a sexual  
 1528 | predator as defined in s. 775.21 or to have been convicted of an  
 1529 | offense listed in s. 63.089(4)(b)2.

1530 |         Section 16. Subsection (1), paragraphs (b) and (f) of  
 1531 | subsection (2), subsection (3), and paragraph (c) of subsection  
 1532 | (5) of section 63.097, Florida Statutes, are amended to read:

1533 |             63.097 Fees.--

1534 |         (1) When the adoption entity is an agency, fees may be  
 1535 | assessed if they are approved by the department within the  
 1536 | process of licensing the agency. ~~and if they are for:~~

1537 |             ~~(a) Foster care expenses;~~

1538 |             ~~(b) Preplacement and postplacement social services; and~~

1539 |             ~~(c) Agency facility and administrative costs.~~

1540 |         (2) The following fees, costs, and expenses may be  
 1541 | assessed by the adoption entity or paid by the adoption entity  
 1542 | on behalf of the prospective adoptive parents:

1543 |             (b) Reasonable and necessary medical expenses. These Such  
 1544 | expenses may be paid during the pregnancy and for a period of up  
 1545 | to 6 weeks postpartum. A court may approve payment of medical  
 1546 | expenses incurred beyond 6 weeks if it finds that extraordinary  
 1547 | circumstances justify the payment.

1548 |         (f) The following professional fees:

1549 |             1. A reasonable hourly fee or flat fee necessary to  
 1550 | provide legal representation to the adoptive parents, birth  
 1551 | parents, or adoption entity in a proceeding filed under this  
 1552 | chapter.



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1553           2. A reasonable hourly fee or flat fee for contact with  
1554 the parent related to the adoption. In determining a reasonable  
1555 hourly fee under this subparagraph, the court must consider if  
1556 the tasks done were clerical or of such a nature that the matter  
1557 could have been handled by support staff at a lesser rate than  
1558 the rate for legal representation charged under subparagraph 1.  
1559 Such tasks include, but need not be limited to, transportation,  
1560 transmitting funds, arranging appointments, and securing  
1561 accommodations.

1562           3. A reasonable hourly fee for counseling services  
1563 provided to a parent or a prospective adoptive parent by a  
1564 psychologist licensed under chapter 490 or a clinical social  
1565 worker, marriage and family therapist, or mental health  
1566 counselor licensed under chapter 491, or a counselor who is  
1567 employed by an adoption entity accredited by the Council on  
1568 Accreditation of Services for Children and Families to provide  
1569 pregnancy counseling and supportive services.

1570           (3) Approval of the court is not required until the total  
1571 of amounts permitted under subsection (2) exceeds:

- 1572           (a) \$5,000 per law firm in legal ~~or other~~ fees;
- 1573           (b) \$800 in court costs; or
- 1574           (c) \$5,000 in reasonable and necessary living ~~and medical~~  
1575 expenses.

1576           (5) The following fees, costs, and expenses are  
1577 prohibited:

- 1578           (c) Any fee on the affidavit which does not specify the  
1579 service that was provided and for which the fee is being  
1580 charged, such as a fee for facilitation, acquisition, or other

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1581 similar service, or an hourly rate which does not identify the  
 1582 date the service was provided, the time required to provide the  
 1583 service, the person or entity providing the service, and the  
 1584 hourly fee charged.

1585 Section 17. Section 63.102, Florida Statutes, is amended  
 1586 to read:

1587 63.102 Filing of petition for adoption or declaratory  
 1588 statement; venue; proceeding for approval of fees and costs.--

1589 (1) PETITION FOR ADOPTION.--A petition for adoption may  
 1590 not be filed until after the entry of the judgment or decree  
 1591 terminating parental rights ~~pending adoption under this chapter,~~  
 1592 unless the adoptee is an adult or, the petitioner is a  
 1593 stepparent or a relative, ~~or the minor has been the subject of a~~  
 1594 ~~judgment terminating parental rights under chapter 39.~~ After a  
 1595 judgment terminating parental rights has been entered, a  
 1596 proceeding for adoption may be commenced by filing a petition  
 1597 entitled, "In the Matter of the Adoption of \_\_\_\_" in the circuit  
 1598 court. The person to be adopted shall be designated in the  
 1599 caption in the name by which he or she is to be known if the  
 1600 petition is granted. At the request of a party, the ~~Any~~ name by  
 1601 which the minor was previously known may not be disclosed in the  
 1602 petition, the notice of hearing according to s. 63.122(3), or  
 1603 the judgment of adoption, or court docket according to s.  
 1604 63.162(3).

1605 (2) VENUE.--A petition for adoption or for a declaratory  
 1606 statement as to the adoption contract may ~~shall~~ be filed in the  
 1607 county where the petition for termination of parental rights was  
 1608 granted, in ~~unless the court, in accordance with s. 47.122,~~

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1609 ~~changes the venue to~~ the county where the petitioner or  
 1610 petitioners or the minor resides, or where the adoption entity  
 1611 ~~with which the minor has been placed~~ is located. The circuit  
 1612 court in this state may ~~must~~ retain jurisdiction over the matter  
 1613 until a final judgment is entered on the adoption. The Uniform  
 1614 Child Custody Jurisdiction and Enforcement Act does not apply  
 1615 until a final judgment is entered on the adoption.

1616 (3) FILING OF ADOPTION PETITION REQUIRED.--Except in cases  
 1617 in which the minor child was placed by the department and unless  
 1618 leave of court is granted for good cause shown, a petition for  
 1619 adoption shall be filed not later than 60 days after entry of  
 1620 the final judgment terminating parental rights.

1621 (4) CONFIDENTIALITY.--If the filing of the petition for  
 1622 adoption or for a declaratory statement as to the adoption  
 1623 contract in the county where the petitioner or minor resides  
 1624 would tend to endanger the privacy of the petitioner or minor,  
 1625 the petition for adoption may be filed in a different county,  
 1626 provided the substantive rights of any person will not thereby  
 1627 be affected.

1628 (5) ~~PRIOR~~ APPROVAL OF FEES AND COSTS.--A proceeding for  
 1629 ~~prior~~ approval of fees and costs may be commenced any time after  
 1630 an agreement is reached with ~~between~~ the birth mother or ~~and~~ the  
 1631 adoptive parents by filing a petition or motion ~~for declaratory~~  
 1632 ~~statement~~ on the agreement entitled "In the Matter of the  
 1633 Proposed Adoption of a Minor Child" in the circuit court.

1634 (a) The petition must be filed by the adoption entity with  
 1635 the consent of the parties to the agreement.

1636 (b) A contract for the payment of fees, costs, and  
 1637 expenses permitted under this chapter must be in writing, and  
 1638 any person who enters into the contract has 3 business days in  
 1639 which to cancel the contract unless placement of the child has  
 1640 occurred. To cancel the contract, the person must notify the  
 1641 adoption entity in writing by certified United States mail,  
 1642 return receipt requested, no later than 3 business days after  
 1643 signing the contract. For the purposes of this subsection, the  
 1644 term "business day" means a day on which the United States  
 1645 Postal Service accepts certified mail for delivery. If the  
 1646 contract is canceled within the first 3 business days, the  
 1647 person who cancels the contract does not owe any legal,  
 1648 intermediary, or other fees, but may be responsible for the  
 1649 adoption entity's actual costs during that time.

1650 (c) The court may grant approval only of fees and expenses  
 1651 permitted under s. 63.097. A prior approval of prospective fees  
 1652 and costs creates ~~shall create~~ a presumption that these items  
 1653 will subsequently be approved by the court under s. 63.132. The  
 1654 court, under s. 63.132, may order an adoption entity to refund  
 1655 any amounts paid under this subsection that are subsequently  
 1656 found by the court to be greater than fees, costs, and expenses  
 1657 actually incurred.

1658 (d) The contract may not require, and the court may not  
 1659 approve, any amount that constitutes payment for locating a  
 1660 minor for adoption except as authorized under s. 63.212(1).

1661 (e) A declaratory statement as to the adoption contract,  
 1662 regardless of when filed, shall be consolidated with any related  
 1663 petition for adoption. The clerk of the court shall only assess

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1664 one filing fee that includes the adoption action, the  
1665 declaratory statement petition, and the petition for termination  
1666 of parental rights.

1667 (f) Prior approval of fees and costs by the court does not  
1668 obligate the parent to ultimately relinquish the minor for  
1669 adoption.

1670 (6) STEPCHILD, RELATIVE, AND ADULT ADOPTIONS.--Petitions  
1671 for the adoption of a stepchild, a relative, or an adult may  
1672 ~~shall~~ not require the filing of a separate judgment or separate  
1673 proceeding terminating parental rights pending adoption. The  
1674 final judgment of adoption has ~~shall have~~ the effect of  
1675 terminating parental rights simultaneously with the granting of  
1676 the decree of adoption.

1677 Section 18. Subsection (2) of section 63.112, Florida  
1678 Statutes, is amended to read:

1679 63.112 Petition for adoption; description; report or  
1680 recommendation, exceptions; mailing.--

1681 (2) The following documents are required to be filed with  
1682 the clerk of the court at the time the petition is filed:

1683 (a) A certified copy of the court judgment terminating  
1684 parental rights ~~under chapter 39 or under this chapter~~ or, if  
1685 the adoptee is an adult or a minor relative or stepchild of the  
1686 petitioner, the required consent, unless the ~~such~~ consent is  
1687 excused by the court.

1688 (b) The favorable preliminary home study of the  
1689 department, licensed child-placing agency, or professional under  
1690 ~~pursuant to~~ s. 63.092, as to the suitability of the home in

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1691 | which the minor has been placed, unless the petitioner is a  
1692 | stepparent or a relative.

1693 | (c) A copy of any declaratory statement previously entered  
1694 | by the court under ~~pursuant to~~ s. 63.102.

1695 | (d) Documentation that an interview was held with the  
1696 | minor, if older than 12 years of age, unless the court, in the  
1697 | best interest of the minor, dispenses with the minor's consent  
1698 | under s. 63.062(1)(c).

1699 | Section 19. Subsections (3) and (5) of section 63.122,  
1700 | Florida Statutes, are amended to read:

1701 | 63.122 Notice of hearing on petition.--

1702 | (3) Upon a showing by the petitioner that the privacy,  
1703 | safety, or ~~and~~ welfare of the petitioner or minor may be  
1704 | endangered, the court may order the names, addresses, or other  
1705 | identifying information of the petitioner, parent, or minor, or  
1706 | all both, to be deleted from the notice of hearing and from the  
1707 | copy of the petition attached thereto, provided the substantive  
1708 | rights of any person will not thereby be affected.

1709 | ~~(5) After filing the petition to adopt an adult, the court~~  
1710 | ~~may order an appropriate investigation to assist in determining~~  
1711 | ~~whether the adoption is in the best interest of the persons~~  
1712 | ~~involved and is in accordance with state law.~~

1713 | Section 20. Subsection (4) of section 63.125, Florida  
1714 | Statutes, is amended to read:

1715 | 63.125 Final home investigation.--

1716 | (4) The department, the licensed child-placing agency, or  
1717 | the professional making the required investigation may request  
1718 | other state agencies, licensed professionals qualified to

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1719 conduct a home study, or child-placing agencies within or  
 1720 outside this state to make investigations of designated parts of  
 1721 the inquiry and to make a written report to the department, the  
 1722 professional, or other person or agency.

1723 Section 21. Subsections (1) and (4) of section 63.132,  
 1724 Florida Statutes, are amended to read:

1725 63.132 Affidavit of expenses and receipts.--

1726 (1) Before the hearing on the petition for adoption, the  
 1727 prospective adoptive parent and any adoption entity must file  
 1728 ~~two copies of an affidavit itemizing under this section.~~

1729 ~~(a) The affidavit must be signed by the adoption entity  
 1730 and the prospective adoptive parents. A copy of the affidavit  
 1731 must be provided to the adoptive parents at the time the  
 1732 affidavit is executed.~~

1733 ~~(b) The affidavit must itemize all disbursements and  
 1734 receipts of anything of value, including all ~~professional and~~  
 1735 ~~legal~~ fees, made or agreed to be made by or on behalf of the  
 1736 prospective adoptive parent and any adoption entity in  
 1737 connection with the placement of ~~adoption or in connection with~~  
 1738 ~~any prior proceeding to terminate parental rights which involved~~  
 1739 the minor who is the subject of the petition for adoption. ~~The~~  
 1740 ~~affidavit must also include, for each legal or counseling fee~~  
 1741 ~~itemized, the service provided for which the fee is being~~  
 1742 ~~charged, the date the service was provided, the time required to~~  
 1743 ~~provide the service if the service was charged by the hour, the~~  
 1744 ~~person or entity that provided the service, and the hourly fee~~  
 1745 ~~charged.~~~~

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1746           ~~(e)~~ The affidavit must show any expenses or receipts  
1747 incurred in connection with:

1748           ~~(a)1.~~ The birth of the minor.

1749           ~~(b)2.~~ The placement of the minor with the petitioner.

1750           ~~(c)3.~~ The medical or hospital care received by the mother  
1751 or by the minor during the mother's prenatal care and  
1752 confinement.

1753           ~~(d)4.~~ The living expenses of the birth mother. The living  
1754 expenses must be itemized in detail to apprise the court of the  
1755 exact expenses incurred.

1756           ~~(e)5.~~ The services relating to the adoption or to the  
1757 placement of the minor for adoption that were received by or on  
1758 behalf of the petitioner, the adoption entity, either parent,  
1759 the minor, or any other person.

1760           (f) All fees charged in connection with the placement of  
1761 the minor.

1762  
1763 The affidavit must state whether any of these expenses were paid  
1764 for by collateral sources, including, but not limited to, health  
1765 insurance, Medicaid, Medicare, or public assistance.

1766           (4) This section does not apply to an adoption by a  
1767 stepparent or an adoption of a relative or adult, does not apply  
1768 to the finalization of an adoption of a minor whose parental  
1769 rights were terminated under chapter 39, and does not apply to  
1770 the domestication of an adoption decree of a minor child adopted  
1771 in a foreign country.

1772           Section 22. Subsection (1) of section 63.135, Florida  
1773 Statutes, is amended to read:



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1774 63.135 Information under oath to be submitted to the  
1775 court.--

1776 (1) The adoption entity or petitioner must file an  
1777 affidavit under the Uniform Child Custody Jurisdictional and  
1778 Enforcement Act in a termination of parental rights ~~Each party~~  
1779 ~~in an adoption proceeding,~~ in the first pleading or in an  
1780 affidavit attached to that pleading, ~~shall give information~~  
1781 ~~under oath as to the child's present address, the places where~~  
1782 ~~the child has lived within the last 5 years, and the names and~~  
1783 ~~present addresses of the persons with whom the child has lived~~  
1784 ~~during that period. In the pleading or affidavit each party~~  
1785 ~~shall further declare under oath whether:~~

1786 ~~(a) The party has participated as a party or witness or in~~  
1787 ~~any other capacity in any other litigation concerning the~~  
1788 ~~custody of the same child in this or any other state;~~

1789 ~~(b) The party has information of any custody proceeding~~  
1790 ~~concerning the child pending in a court of this or any other~~  
1791 ~~state; and~~

1792 ~~(c) The party knows of any person not a party to the~~  
1793 ~~proceedings who has physical custody of the child or claims to~~  
1794 ~~have custody or visitation rights with respect to the child.~~

1795 Section 23. Subsections (3) and (4) of section 63.142,  
1796 Florida Statutes, are amended to read:

1797 63.142 Hearing; judgment of adoption.--

1798 (3) DISMISSAL.--

1799 (a) If the petition is dismissed, further proceedings, if  
1800 any, regarding the minor must be brought in a separate custody  
1801 action under chapter 61, a dependency action under chapter 39,

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1802 | ~~or a paternity action under chapter 742 the court shall~~  
 1803 | ~~determine the person that is to have custody of the minor.~~

1804 | (b) If the petition is dismissed, the court shall state  
 1805 | with specificity the reasons for the dismissal.

1806 | (4) JUDGMENT.--At the conclusion of the hearing, after the  
 1807 | court determines that the date for a parent to file an appeal of  
 1808 | a valid judgment terminating that parent's parental rights has  
 1809 | passed and no appeal, under ~~pursuant to~~ the Florida Rules of  
 1810 | Appellate Procedure, is pending and that the adoption is in the  
 1811 | best interest of the person to be adopted, a judgment of  
 1812 | adoption shall be entered. A judgment terminating parental  
 1813 | rights pending adoption is voidable and any later judgment of  
 1814 | adoption of that minor is voidable if, upon a parent's motion  
 1815 | for relief from judgment, the court finds that the adoption  
 1816 | fails to substantially meet the requirements of this chapter.  
 1817 | The motion must be filed within a reasonable time, but not later  
 1818 | than 1 year after the date the judgment terminating parental  
 1819 | rights was entered.

1820 | Section 24. Section 63.152, Florida Statutes, is amended  
 1821 | to read:

1822 | 63.152 Application for new birth record.--Within 30 days  
 1823 | after entry of a judgment of adoption, the clerk of the court  
 1824 | shall transmit a certified statement of the entry to the state  
 1825 | registrar of vital statistics in the state where the adoptee was  
 1826 | born on a form provided by the registrar. A new birth record  
 1827 | containing the necessary information supplied by the certificate  
 1828 | shall be issued by the registrar on application of the adopting  
 1829 | parents or the adopted person.

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1830 Section 25. Subsections (1), (3), (4), and (7) of section  
1831 63.162, Florida Statutes, are amended, and subsection (8) is  
1832 added to that section, to read:

1833 63.162 Hearings and records in adoption proceedings;  
1834 confidential nature.--

1835 (1) All hearings held in proceedings under this chapter  
1836 ~~act~~ shall be held in closed court without admittance of any  
1837 person other than essential officers of the court, the parties,  
1838 witnesses, counsel, persons who have not consented to the  
1839 adoption and are required to consent, and representatives of the  
1840 agencies who are present to perform their official duties.

1841 (3) The court files, records, and papers in the adoption  
1842 of a minor shall be indexed only in the name of the petitioner,  
1843 and the name of the petitioner and the minor ~~may shall~~ not be  
1844 noted on any docket, index, or other record outside the court  
1845 file, except that closed agency files may be cross-referenced in  
1846 the original and adoptive names of the minor. The index is not  
1847 subject to the public records law and is not open to public  
1848 inspection.

1849 (4) A person may not disclose from the records the name  
1850 and identity of a birth parent, an adoptive parent, or an  
1851 adoptee unless:

1852 (a) The birth parent authorizes in writing the release of  
1853 his or her name and files the release with the adoption entity,  
1854 an adoption reunion registry, the department, or the court;

1855 (b) The adoptee, if 18 or more years of age, authorizes in  
1856 writing the release of his or her name; or, if the adoptee is

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1857 | less than 18 years of age, written consent to disclose the  
1858 | adoptee's name is obtained from an adoptive parent;

1859 | (c) The adoptive parent authorizes in writing the release  
1860 | of his or her name; or

1861 | (d) Upon order of the court for good cause shown. In  
1862 | determining whether good cause exists, the court shall give  
1863 | primary consideration to the best interests of the adoptee, but  
1864 | must also give due consideration to the interests of the  
1865 | adoptive and birth parents. Factors to be considered in  
1866 | determining whether good cause exists include, but are not  
1867 | limited to:

1868 | 1. The reason the information is sought;

1869 | 2. The existence of means available to obtain the desired  
1870 | information without disclosing the identity of the birth  
1871 | parents, such as by having the court, a person appointed by the  
1872 | court, the department, or the licensed child-placing agency  
1873 | contact the birth parents and request specific information;

1874 | 3. The desires, to the extent known, of the adoptee, the  
1875 | adoptive parents, and the birth parents;

1876 | 4. The age, maturity, judgment, and expressed needs of the  
1877 | adoptee; and

1878 | 5. The recommendation of the department, licensed child-  
1879 | placing agency, or professional which prepared the preliminary  
1880 | study and home investigation, or the department if no such study  
1881 | was prepared, concerning the advisability of disclosure.

1882 | (7) The court may, upon petition of an adult adoptee, for  
1883 | good cause shown, appoint an intermediary or a licensed child-  
1884 | placing agency to contact a birth parent to ~~who has not~~

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1885 ~~registered with the adoption registry pursuant to s. 63.165 and~~  
 1886 advise him or her ~~them~~ of the adoptee's request to open the file  
 1887 or the adoption registry, and offer the birth parent the  
 1888 opportunity to waive confidentiality and consent to the opening  
 1889 of his or her records availability of same.

1890 (8) As a result of any proceeding under s. 382.015, this  
 1891 section, or any other proceeding to unseal an original birth  
 1892 certificate, the Office of Vital Statistics may release an  
 1893 original sealed birth certificate only to the department. The  
 1894 department must make a written request for the birth certificate  
 1895 from the Office of Vital Statistics within 10 days after the  
 1896 department's receipt of an order or other documentation  
 1897 authorizing unsealing of the original birth certificate. Upon  
 1898 receipt of the department's request, the Office of Vital  
 1899 Statistics shall release the original sealed birth certificate  
 1900 to the department in a manner that will ensure confidentiality.

1901 Section 26. Section 63.192, Florida Statutes, is amended  
 1902 to read:

1903 63.192 Recognition of foreign judgment affecting  
 1904 adoption.--A judgment or decree granting legal guardianship for  
 1905 purposes of adoption, of court terminating the relationship of  
 1906 parent and child, or establishing the relationship by adoption  
 1907 issued under ~~pursuant to~~ due process of law by a court or  
 1908 authorized body of any other jurisdiction within or without the  
 1909 United States shall be recognized in this state, and the rights  
 1910 and obligations of the parties ~~on matters within the~~  
 1911 ~~jurisdiction of this state~~ shall be determined as though the  
 1912 judgment were issued by a court of this state. A judgment or

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1913 | decree of a court or authorized body terminating the  
 1914 | relationship of a parent and child, whether independent,  
 1915 | incorporated in an adoption decree, or incorporated in a legal  
 1916 | guardianship order issued pursuant to due process of law of any  
 1917 | other jurisdiction within or without the United States, shall be  
 1918 | deemed to effectively terminate parental rights for purposes of  
 1919 | proceeding on a petition for adoption in this state. When a  
 1920 | minor child has been made available for adoption in a foreign  
 1921 | state or foreign country and the parental rights of the minor  
 1922 | child's parent have been terminated, or the child has been  
 1923 | declared to be abandoned or orphaned, no additional termination  
 1924 | of parental rights proceeding need occur, and the adoption may  
 1925 | be finalized according to the procedures set forth in this  
 1926 | chapter.

1927 | Section 27. Section 63.207, Florida Statutes, is amended  
 1928 | to read:

1929 | 63.207 Out-of-state placement.--

1930 | (1) Unless the parent placing a minor for adoption files  
 1931 | an affidavit that the parent chooses to place the minor outside  
 1932 | the state, giving the reason for that placement, or the minor is  
 1933 | to be placed with a relative or with a stepparent, or the minor  
 1934 | is a special needs child, as defined in s. 409.166, or for other  
 1935 | good cause shown, an adoption entity may not:

1936 | (a) Take or send a minor out of the state for the purpose  
 1937 | of placement for adoption; or

1938 | (b) Place or attempt to place a minor for the purpose of  
 1939 | adoption with a family who primarily lives and works outside  
 1940 | Florida in another state. If an adoption entity is acting under

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1941 | this subsection, the adoption entity must file a petition for  
 1942 | declaratory statement under ~~pursuant to~~ s. 63.102 for ~~prior~~  
 1943 | approval of fees and costs. The court shall review the costs  
 1944 | under ~~pursuant to~~ s. 63.097. The petition for declaratory  
 1945 | statement may ~~must~~ be consolidated with ~~converted to~~ a petition  
 1946 | for an adoption upon placement of the minor in the home. When a  
 1947 | minor is placed for adoption with prospective adoptive parents  
 1948 | who primarily live and work outside this state, the circuit  
 1949 | court in this state may retain jurisdiction over the matter  
 1950 | until the adoption becomes final. The prospective adoptive  
 1951 | parents may finalize the adoption in this state or their home  
 1952 | state.

1953 |         (2) An adoption entity may not counsel a birth mother to  
 1954 | leave the state for the purpose of giving birth to a child  
 1955 | outside the state in order to secure a fee in excess of that  
 1956 | permitted under s. 63.097 when it is the intention that the  
 1957 | child is to be placed for adoption outside the state.

1958 |         (3) When applicable, the Interstate Compact on the  
 1959 | Placement of Children authorized in s. 409.401 shall be used in  
 1960 | placing children outside the state for adoption, unless excused  
 1961 | by the court for good cause shown.

1962 |         Section 28. Paragraphs (b), (c), and (f) of subsection (1)  
 1963 | and subsections (2) and (7) of section 63.212, Florida Statutes,  
 1964 | are amended to read:

1965 |         63.212 Prohibited acts; penalties for violation.--

1966 |             (1) It is unlawful for any person:

1967 |             (b) Except an adoption entity, to place or attempt to  
 1968 | place within the state a minor for adoption unless the minor is

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1969 placed with a relative or with a stepparent. This prohibition,  
 1970 however, does not apply to a person who is placing or attempting  
 1971 to place a minor for the purpose of adoption with the adoption  
 1972 entity or the prospective adoptive parents.

1973 (c) To sell or surrender, or to arrange for the sale or  
 1974 surrender of, a minor to another person for money or anything of  
 1975 value or to receive a ~~such~~ minor child for a ~~such~~ payment or  
 1976 thing of value. If a minor is being adopted by a relative or by  
 1977 a stepparent, or is being adopted through an adoption entity,  
 1978 this paragraph does not prohibit the person who is contemplating  
 1979 adopting the child from paying, under ss. 63.097 and 63.132, the  
 1980 actual prenatal care and living expenses of the mother of the  
 1981 child to be adopted, or from paying, under ss. 63.097 and  
 1982 63.132, the actual living and medical expenses of the ~~such~~  
 1983 mother under these sections ~~for a reasonable time, not to exceed~~  
 1984 ~~6 weeks, if medical needs require such support, after the birth~~  
 1985 ~~of the minor~~.

1986 (f) Except an adoption entity, to charge or accept any fee  
 1987 or compensation of any nature from anyone for making a referral  
 1988 in connection with an adoption or for providing adoption  
 1989 services, facilitating, matching, or placement services.

1990 (2)(a) It is unlawful for any person under this chapter  
 1991 to:

- 1992 1. Knowingly provide false information; or
- 1993 2. Knowingly withhold material information.

1994 (b) It is unlawful for a parent, with the intent to  
 1995 defraud, to accept benefits related to the same pregnancy from



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1996 | more than one adoption entity without disclosing that fact to  
1997 | each entity.

1998 | ~~(c) It is unlawful for any person who knows that the~~  
1999 | ~~parent whose rights are to be terminated intends to object to~~  
2000 | ~~said termination to intentionally file the petition for~~  
2001 | ~~termination of parental rights in a county inconsistent with the~~  
2002 | ~~required venue under such circumstances.~~

2003 |  
2004 | Any person who willfully violates any provision of this  
2005 | subsection commits a misdemeanor of the second degree,  
2006 | punishable as provided in s. 775.082 or s. 775.083. In addition,  
2007 | the ~~such~~ person is liable for damages caused by the ~~such~~ acts or  
2008 | omissions, including reasonable attorney's fees and costs.  
2009 | Damages may be awarded through restitution in any related  
2010 | criminal prosecution or by filing a separate civil action.

2011 | (7) It is unlawful for any adoptive parent or adoption  
2012 | entity to obtain a preliminary home study or final home  
2013 | investigation and fail to disclose the existence of the study or  
2014 | investigation to the court when required by law to do so.

2015 | Section 29. Subsection (4) and paragraph (c) of subsection  
2016 | (6) of section 63.213, Florida Statutes, are amended to read:

2017 | 63.213 Preplanned adoption agreement.--

2018 | (4) An attorney who represents an intended father and  
2019 | intended mother or any other attorney with whom that attorney is  
2020 | associated shall not represent simultaneously a female who is or  
2021 | proposes to be a volunteer mother in the same ~~any matter~~  
2022 | ~~relating to a preplanned adoption agreement or preplanned~~  
2023 | adoption arrangement.

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2024 (6) As used in this section, the term:

2025 (c) "Fertility technique" means artificial embryonation,  
2026 or artificial insemination, whether in vivo or in vitro, ~~egg~~  
2027 ~~donation, or embryo adoption.~~

2028 Section 30. Section 63.236, Florida Statutes, is created  
2029 to read:

2030 63.236 Petitions filed before effective date; governing  
2031 law.--Any petition for termination of parental rights filed  
2032 before the July 1, 2005, shall be governed by the law in effect  
2033 at the time the petition was filed.

2034 Section 31. Paragraph (a) of subsection (2), paragraph (a)  
2035 of subsection (3), and subsection (5) of section 409.166,  
2036 Florida Statutes, are amended to read:

2037 409.166 Special needs children; subsidized adoption  
2038 program.--

2039 (2) DEFINITIONS.--As used in this section, the term:

2040 (a) "Special needs child" means a child whose permanent  
2041 custody has been awarded to the department or to a licensed  
2042 child-placing agency or placed through an adoptive intermediary  
2043 and:

2044 1. Who has established significant emotional ties with his  
2045 or her foster parents; or

2046 2. Is not likely to be adopted because he or she is:

2047 a. Eight years of age or older;

2048 b. Mentally retarded;

2049 c. Physically or emotionally handicapped;

2050 d. Of black ~~or racially mixed~~ parentage; or

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2051 e. A member of a sibling group of any age, provided two or  
2052 more members of a sibling group remain together for purposes of  
2053 adoption.

2054 (3) ADMINISTRATION OF PROGRAM.--

2055 (a) The department shall establish and administer an  
2056 adoption program for special needs children to be carried out by  
2057 the department or by contract with a licensed child-placing  
2058 agency or adoptive intermediary. The program shall attempt to  
2059 increase the number of persons seeking to adopt special needs  
2060 children and the number of adoption placements and shall extend  
2061 subsidies and services, when needed, to the adopting parents of  
2062 a special needs child.

2063 (5) WAIVER OF ADOPTION FEES.--The adoption fees shall be  
2064 waived for all adoptive parents who participate in the program  
2065 who adopt children in the custody of the department. Fees may  
2066 be waived for families who adopt children in the custody of  
2067 licensed child-placing agencies or who adopt children through  
2068 intermediary-placed ~~independent~~ adoptions, and who receive or  
2069 may be eligible for subsidies through the department.

2070 Retroactive reimbursement of fees may not be required for  
2071 families who adopt children in the custody of licensed child-  
2072 placing agencies.

2073 Section 32. Paragraph (b) of subsection (5), paragraph (b)  
2074 of subsection (10), paragraph (b) of subsection (11), and  
2075 subsection (14) of section 409.176, Florida Statutes, are  
2076 amended to read:

2077 409.176 Registration of residential child-caring agencies  
2078 and family foster homes.--

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2079 (5) The licensing provisions of s. 409.175 do not apply to  
2080 a facility operated by an organization that:

2081 (b) Is certified by a Florida statewide child care  
2082 organization which was in existence on January 1, 1984, and  
2083 which publishes, and requires compliance with, its standards and  
2084 files copies thereof with the department. These ~~Such~~ standards  
2085 shall be in substantial compliance with published minimum  
2086 standards that similar licensed child-caring agencies, licensed  
2087 child-placing agencies, or family foster homes are required to  
2088 meet, as determined by the department, with the exception of  
2089 those standards of a curricular or religious nature and those  
2090 relating to staffing or financial stability of licensed child-  
2091 caring agencies or foster homes. Once the department has  
2092 determined that the standards for child-caring agencies, child-  
2093 placing agencies, or family foster homes are in substantial  
2094 compliance with minimum standards that similar facilities are  
2095 required to meet, the standards do not have to be resubmitted to  
2096 the department unless a change occurs in the standards. Any  
2097 changes in the standards shall be provided to the department  
2098 within 10 days of their adoption.

2099 (10)

2100 (b) The qualified association shall notify the department  
2101 when the qualified association finds, within 30 days after  
2102 written notification by registered mail of the requirement for  
2103 registration, that a person or facility continues to care for  
2104 children without a certificate of registration. The department  
2105 shall notify the appropriate state attorney of the violation of  
2106 law and, if necessary, shall institute a civil suit to enjoin

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2107 | the person or facility from continuing the care or placement of  
2108 | children.

2109 | (11)

2110 | (b) If the department determines that a person or facility  
2111 | is caring for or placing a child without a valid certificate of  
2112 | registration issued by the qualified association or has made a  
2113 | willful or intentional misstatement on any registration  
2114 | application or other document required to be filed in connection  
2115 | with an application for a certificate of registration, the  
2116 | qualified association, as an alternative to or in conjunction  
2117 | with an administrative action against the ~~such~~ person or  
2118 | facility, shall make a reasonable attempt to discuss each  
2119 | violation with, and recommend corrective action to, the person  
2120 | or the administrator of the facility, prior to written  
2121 | notification thereof.

2122 | (14) Registration under this section, including the issue  
2123 | of substantial compliance with published minimum standards that  
2124 | similar licensed child-caring facilities, licensed child-placing  
2125 | agencies, or family foster homes are required to meet, as  
2126 | provided in paragraph (5)(b), is subject to ~~the provisions of~~  
2127 | chapter 120.

2128 | Section 33. Section 742.14, Florida Statutes, is amended  
2129 | to read:

2130 | 742.14 Donation of eggs, sperm, or preembryos.--The donor  
2131 | of any egg, sperm, ~~or~~ preembryo, or embryo, other than the  
2132 | commissioning couple or a father who has executed a preplanned  
2133 | adoption agreement under s. 63.212, shall relinquish all  
2134 | maternal or paternal rights and obligations with respect to the

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2135 | donation or the resulting children simultaneously upon the  
 2136 | completion of the donation. Only reasonable compensation  
 2137 | directly related to the donation of eggs, sperm, ~~and~~ preembryos,  
 2138 | and embryos shall be permitted.

2139 |       Section 34. Subsection (2) of section 742.15, Florida  
 2140 | Statutes, is amended to read:

2141 |           742.15 Gestational surrogacy contract.--

2142 |       (2) The commissioning couple shall enter into a contract  
 2143 | with a gestational surrogate only when, within reasonable  
 2144 | medical certainty as determined by a physician licensed under  
 2145 | chapter 458 or chapter 459 or a physician licensed under an  
 2146 | equivalent law in the physician's state of practice:

2147 |       (a) The commissioning mother cannot physically gestate a  
 2148 | pregnancy to term;

2149 |       (b) The gestation will cause a risk to the physical health  
 2150 | of the commissioning mother; or

2151 |       (c) The gestation will cause a risk to the health of the  
 2152 | fetus.

2153 |       Section 35. Section 742.18, Florida Statutes, is created  
 2154 | to read:

2155 |           742.18 Prohibited fees and acts.--

2156 |       (1) A person or entity, except a licensed physician,  
 2157 | fertility clinic, or attorney, may not:

2158 |       (a) Receive compensation in advising or assisting in donor  
 2159 | or gestational carrier arrangements.

2160 |       (b) Advertise or offer to the public, in any way, by any  
 2161 | medium whatsoever, that a donor, carrier, or intended parent is

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2162 sought for or available for matching or that the person or  
 2163 entity provides services in the arrangements.

2164 (c) Publish or broadcast any advertisement except that an  
 2165 intended parent or parents, carrier, or donor seeks a donor,  
 2166 intended parent, or carrier for the person's or entity's own  
 2167 arrangement.

2168 (d) Charge or accept any fee or compensation of any nature  
 2169 to or from anyone for making a referral in connection with a  
 2170 donor or carrier agreement or for facilitating such an  
 2171 arrangement.

2172 (e) Hold funds in escrow in a donor or gestational carrier  
 2173 arrangement.

2174 (f) Assist in the commission of any act in paragraphs (a)-  
 2175 (e).

2176 (2) A fee, whether denominated as an agent, agency,  
 2177 finder, or facilitator's fee for finding, screening, matching,  
 2178 or facilitating a donor or gestational carrier arrangement, may  
 2179 not be paid to or received by a person other than a licensed  
 2180 physician, fertility clinic, or attorney.

2181 (3) A person or entity who violates this section may be  
 2182 enjoined by a court from engaging in these practices in this  
 2183 state.

2184 (4)(a) A person who willfully violates this section  
 2185 commits a misdemeanor of the second degree, punishable as  
 2186 provided in s. 775.082 or s. 775.083. Each day of a continuing  
 2187 violation constitutes a separate offense.

2188 (b) A person who violates this section is liable for  
 2189 damages caused by his or her acts or omissions and for

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2190 reasonable attorney's fees and costs. Damages may be awarded  
 2191 through restitution in any related criminal prosecution or by  
 2192 filing a separate civil action.

2193 Section 36. For the purpose of incorporating the amendment  
 2194 made by this act to section 63.062, Florida Statutes, in a  
 2195 reference thereto, subsection (49) of section 39.01, Florida  
 2196 Statutes, is reenacted to read:

2197 39.01 Definitions.--When used in this chapter, unless the  
 2198 context otherwise requires:

2199 (49) "Parent" means a woman who gives birth to a child and  
 2200 a man whose consent to the adoption of the child would be  
 2201 required under s. 63.062(1). If a child has been legally  
 2202 adopted, the term "parent" means the adoptive mother or father  
 2203 of the child. The term does not include an individual whose  
 2204 parental relationship to the child has been legally terminated,  
 2205 or an alleged or prospective parent, unless the parental status  
 2206 falls within the terms of s. 39.503(1) or s. 63.062(1). For  
 2207 purposes of this chapter only, when the phrase "parent or legal  
 2208 custodian" is used, it refers to rights or responsibilities of  
 2209 the parent and, only if there is no living parent with intact  
 2210 parental rights, to the rights or responsibilities of the legal  
 2211 custodian who has assumed the role of the parent.

2212 Section 37. For the purpose of incorporating the amendment  
 2213 made by this act to section 63.062, Florida Statutes, in a  
 2214 reference thereto, subsection (39) of section 984.03, Florida  
 2215 Statutes, is reenacted to read:

2216 984.03 Definitions.--When used in this chapter, the term:



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2217 (39) "Parent" means a woman who gives birth to a child and  
 2218 a man whose consent to the adoption of the child would be  
 2219 required under s. 63.062(1). If a child has been legally  
 2220 adopted, the term "parent" means the adoptive mother or father  
 2221 of the child. The term does not include an individual whose  
 2222 parental relationship to the child has been legally terminated,  
 2223 or an alleged or prospective parent, unless the parental status  
 2224 falls within the terms of either s. 39.503(1) or s. 63.062(1).

2225 Section 38. For the purpose of incorporating the amendment  
 2226 made by this act to section 63.062, Florida Statutes, in a  
 2227 reference thereto, subsection (40) of section 985.03, Florida  
 2228 Statutes, is reenacted to read:

2229 985.03 Definitions.--When used in this chapter, the term:

2230 (40) "Parent" means a woman who gives birth to a child and  
 2231 a man whose consent to the adoption of the child would be  
 2232 required under s. 63.062(1). If a child has been legally  
 2233 adopted, the term "parent" means the adoptive mother or father  
 2234 of the child. The term does not include an individual whose  
 2235 parental relationship to the child has been legally terminated,  
 2236 or an alleged or prospective parent, unless the parental status  
 2237 falls within the terms of either s. 39.503(1) or s. 63.062(1).

2238 Section 39. This act shall take effect July 1, 2005.