

CHAMBER ACTION

1 The Health & Families Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to adoption; amending s. 63.022, F.S.;
7 providing legislative intent; amending s. 63.032, F.S.;
8 redefining terms and defining the term "primarily lives
9 and works in Florida"; amending s. 63.039, F.S.; requiring
10 an adoption entity to diligently search for a person whose
11 consent is required for the adoption; amending s. 63.0423,
12 F.S.; providing that a judgment of adoption is voidable
13 under certain circumstances if a court finds that a person
14 whose consent is required gave false information; amending
15 s. 63.0425, F.S.; providing a grandparent's right to
16 notice; amending s. 63.052, F.S.; providing that a court
17 in this state retains jurisdiction until the adoption is
18 finalized in this state or in another state; amending s.
19 63.053, F.S.; providing that if an unmarried biological
20 father fails to take the actions that are available to him
21 to establish a relationship with his child, his parental
22 interest may be lost entirely; amending s. 63.054, F.S.;
23 requiring adoption entity to provide certain information

HB 1299 CS

2005
CS

24 | to the Department of Health; providing that if a putative
25 | father fails to report a change of address to the Florida
26 | Putative Father Registry, the failure is not a valid
27 | defense based upon lack of notice and the adoption entity
28 | or adoption petitioner is not obligated to search further
29 | for the registrant; providing that if a father who is
30 | required to consent to an adoption does not know the
31 | county in which the birth mother resides, gave birth, or
32 | intends to give birth, he may initiate an action in any
33 | county in the state; amending s. 63.062, F.S.; providing
34 | that an adoption agency may file a notice of an intended
35 | adoption plan at any time before the birth of the child or
36 | before placing the child in the adoptive home; requiring
37 | an adoption entity to make a good faith effort to locate
38 | the putative father; providing when an adoption entity has
39 | no further obligation to search for the putative father;
40 | providing for the proper venue to file a petition to
41 | terminate parental rights; amending s. 63.082, F.S.;
42 | providing that notice and consent provisions do not apply
43 | in cases where the child was conceived as a result of a
44 | violation of certain criminal statutes; limiting
45 | revocation of a consent to adopt to 3 days if the child is
46 | older than 6 months of age; authorizing a court to
47 | transfer a child to the prospective adoptive parents under
48 | certain circumstances; requiring the adoption entity to
49 | file a petition for adoption or termination of parental
50 | rights after the transfer of the child; amending s.
51 | 63.085, F.S.; revising provision relating to who may sign

Page 2 of 74

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1299-03-c2

HB 1299 CS

2005
CS

52 a valid consent for adoption; amending s. 63.087, F.S.;

53 providing procedures to terminate parental rights pending

54 an adoption; providing the proper venue in which to file a

55 petition to terminate parental rights; requiring a person

56 to answer the petition and to appear at the hearing for

57 termination of parental rights; amending s. 63.088, F.S.;

58 requiring the court to conduct an inquiry concerning the

59 father of the child who is to be adopted; revising

60 requirements for notice concerning the termination of

61 parental rights; requiring persons contacted by a

62 petitioner or adoption entity to release certain

63 information; amending s. 63.089, F.S.; revising provisions

64 relating to service of notice and petition regarding

65 termination of parental rights and consent to adoption;

66 requiring that certain scientific testing to determine

67 paternity comply with state law; amending s. 63.092, F.S.;

68 providing that if an adoption entity fails to file the

69 report of its intended placement within the specified time

70 period the failure does not constitute grounds to deny the

71 petition for termination of parental rights or adoption

72 under certain circumstances; identifying additional

73 individuals who may perform a home study; providing an

74 exception if the person to be adopted is an adult;

75 amending s. 63.102, F.S.; revising procedures for the

76 filing of a petition for adoption; providing the proper

77 venue where the petition may be filed; amending s. 63.112,

78 F.S.; revising language requiring that a certified copy of

79 a judgment terminating parental rights be filed at the

Page 3 of 74

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1299-03-c2

80 | same time the petition is filed; amending s. 63.122, F.S.;
 81 | providing that certain information may be removed from the
 82 | petition; amending s. 63.125, F.S.; providing certain
 83 | licensed professionals may conduct the final home
 84 | investigation; amending s. 63.132, F.S.; providing
 85 | exceptions to the requirement that the adoptive parent and
 86 | the adoption entity file an affidavit itemizing all
 87 | expenses and receipts; amending s. 63.135, F.S.; requiring
 88 | the adoption entity or petitioner to file an affidavit
 89 | under the Uniform Child Custody Jurisdictional and
 90 | Enforcement Act; revising information required to be
 91 | submitted under oath to the court; amending s. 63.142,
 92 | F.S.; requiring that if an adoption petition is dismissed,
 93 | any further proceedings regarding the minor be brought in
 94 | a separate custody action under ch. 61, F.S., a dependency
 95 | action under ch. 39, F.S., or a paternity action under ch.
 96 | 742, F.S.; amending s. 63.152, F.S.; requiring the clerk
 97 | of court to transmit a certified statement of the adoption
 98 | to the state where the child was born; amending s. 63.162,
 99 | F.S.; authorizing the birth parent to release his or her
 100 | name under certain circumstances; authorizes a court to
 101 | permit certain entities to contact a birth parent to
 102 | advise him or her of the adoptee's request to open the
 103 | file or the adoption registry and provide the opportunity
 104 | to waive confidentiality and consent to the opening of
 105 | records; providing requirements for release of an original
 106 | sealed birth certificate; amending s. 63.172, F.S.;

107 | granting rights of inheritance when a judgment of adoption

108 | has been entered; amending s. 63.182, F.S.; providing that
 109 | the interest that gives a person standing to set aside an
 110 | adoption must be direct, financial, and immediate;
 111 | providing an exception; providing that a showing of an
 112 | indirect, inconsequential, or contingent interest is
 113 | wholly inadequate; providing construction and
 114 | applicability; amending s. 63.192, F.S.; requiring the
 115 | courts of this state to recognize decrees of termination
 116 | of parental rights and adoptions from other states and
 117 | countries; amending s. 63.207, F.S.; revising provisions
 118 | relating to out-of-state placement of minors; amending s.
 119 | 63.212, F.S.; revising acts that are unlawful pertaining
 120 | to adoptions; providing penalties; amending s. 63.213,
 121 | F.S.; prohibiting an attorney from representing the
 122 | volunteer mother and the intended mother in a preplanned
 123 | adoption arrangement; providing penalties and sanctions
 124 | for payment of finder's fees in certain preplanned
 125 | adoption agreements; revising the definition of "fertility
 126 | technique"; amending s. 63.219, F.S.; providing sanctions
 127 | for persons who violate ch. 63, F.S.; creating s. 63.236,
 128 | F.S.; providing that any petition for termination of
 129 | parental rights filed before the effective date of the act
 130 | is governed by the law in effect at the time the petition
 131 | was filed; amending s. 409.166, F.S.; redefining the term
 132 | "special needs child" to remove children of racially mixed
 133 | parentage; providing for participation by adoption
 134 | intermediaries in the adoption program for special needs
 135 | children administered by the Department of Children and

136 Family Services; amending s. 409.176, F.S.; providing that
 137 licensing provisions do not apply to certain licensed
 138 child-placing agencies; amending s. 742.14, F.S.;
 139 providing that the donor of an embryo relinquishes all
 140 parental rights and obligations to the embryo or the
 141 resulting children at the time of the donation; amending
 142 s. 742.15, F.S.; authorizing a physician in a state
 143 outside this state to advise a commissioning couple
 144 concerning a gestational surrogate; amending s. 742.16,
 145 F.S.; revising requirements for affirmation of parental
 146 status for gestational surrogacy; creating s. 742.18, F.S.;
 147 prohibiting a person or entity, except a licensed
 148 physician, fertility clinic, or attorney, from doing
 149 certain specified acts; prohibiting a person other than a
 150 licensed physician, fertility clinic, or attorney from
 151 accepting a fee for finding, screening, matching, or
 152 facilitating a donor or gestational carrier arrangement;
 153 providing that if a person willfully violates the section
 154 he or she commits a misdemeanor of the second degree;
 155 providing criminal penalties; providing that if a person
 156 violates the section he or she is liable for damages
 157 caused by his or her acts or omissions and for reasonable
 158 attorney's fees and costs; providing an effective date.

159
 160 Be It Enacted by the Legislature of the State of Florida:

161
 162 Section 1. Paragraph (e) of subsection (4) and subsection
 163 (5) of section 63.022, Florida Statutes, are amended to read:

HB 1299 CS

2005
CS

164 63.022 Legislative intent.--

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

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

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

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

179 63.032 Definitions.--As used in this chapter, the term:

180 (1) "Abandoned" means a situation in which the parent or
181 person having legal custody of a child, while being able, makes
182 no provision for the child's support and makes little or no
183 effort to communicate with the child, which situation is
184 sufficient to evince an intent to reject parental
185 responsibilities. If, in the opinion of the court, the efforts
186 of the ~~such~~ parent or person having legal custody of the child
187 to support and communicate with the child are only marginal
188 efforts that do not evince a settled purpose to assume all
189 parental duties, the court may declare the child to be
190 abandoned. In making this decision, the court may consider the

191 | conduct of a father towards the child's mother during her
192 | pregnancy.

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

199 | (3) "Adoption entity" means the department, an agency, a
200 | child-caring agency registered under s. 409.176, an
201 | intermediary, an attorney licensed in another state who is
202 | placing a child from another state into this state, or a child-
203 | placing agency licensed in another state which is placing a
204 | child from another state into this state and is qualified by the
205 | department to place children in the State of Florida.

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

210 | ~~(5)~~(4) "Adult" means a person who is not a minor.

211 | ~~(6)~~(5) "Agency" means any child-placing agency licensed by
212 | the department under ~~pursuant to~~ s. 63.202 to place minors for
213 | adoption.

214 | ~~(7)~~(6) "Child" means a son or daughter, whether by birth
215 | or adoption.

216 | ~~(8)~~(7) "Court" means any circuit court of this state and,
217 | when the context requires, the court of any state that is
218 | empowered to grant petitions for adoption.

HB 1299 CS

2005
CS

219 ~~(9)(8)~~ "Department" means the Department of Children and
220 Family Services.

221 ~~(10)(9)~~ "Intermediary" means an attorney who is licensed
222 or authorized to practice in this state and who is placing or
223 intends to place a child for adoption, including placing
224 children born in another state with citizens of this state or
225 country or placing children born in this state with citizens of
226 another state or country.

227 ~~(11)(10)~~ "Legal custody" means a legal status created by
228 court order or letter of guardianship which vests in a custodian
229 of the child or guardian, whether an agency or an individual,
230 the right to have physical custody of the child and the right
231 and duty to protect, train, and discipline the child and to
232 provide him or her with food, shelter, education, and ordinary
233 medical, dental, psychiatric, and psychological care. The legal
234 custodian is the person or entity in whom the legal right to
235 custody is vested ~~has the meaning ascribed in s. 39.01.~~

236 ~~(12)(11)~~ "Minor" means a person under the age of 18 years.

237 ~~(13)(12)~~ "Parent" means a woman who gives birth to a child
238 and a man whose consent to the adoption of the child would be
239 required under s. 63.062. If a child has been legally adopted,
240 the term "parent" means the adoptive mother or father of the
241 child. The terms "parent," "mother," and "father" do not include
242 an individual whose parental relationship to the child has been
243 legally terminated ~~has the same meaning ascribed in s. 39.01.~~

244 ~~(14)(13)~~ "Person" has the same meaning as in s. 1.01
245 ~~includes a natural person, corporation, government or~~

HB 1299 CS

2005
CS

246 ~~governmental subdivision or agency, business trust, estate,~~
247 ~~trust, partnership, or association, and any other legal entity.~~

248 (15)~~(14)~~ "Relative" means a person related by blood,
249 adoption, or marriage to the person being adopted within the
250 third degree of consanguinity.

251 (16)~~(15)~~ "To place" or "placement" means the process of a
252 parent or legal guardian surrendering a child for adoption and
253 the prospective adoptive parents receiving and adopting the
254 child, and includes all actions by any person or adoption entity
255 participating in the process.

256 (17) "Primarily lives and works in Florida" means a person
257 who lives and works in this state at least 6 months and 1 day of
258 the year, military personnel who designate Florida as their
259 place of residence in accordance with the Servicemembers Civil
260 Relief Act, Pub. L. No. 108-189, or citizens of the United
261 States living in a foreign country who designate Florida as
262 their place of residence.

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

268 (18)~~(17)~~ "Primarily lives and works outside Florida" means
269 a person who lives and works outside this state at least 6
270 months and 1 day of the year, military personnel who designate a
271 state other than Florida as their place of residence in
272 accordance with the Servicemembers Civil Relief Act, Pub. L. No.
273 108-189 Soldiers' and Sailors' Civil Relief Act of 1940, or

274 citizens ~~employees~~ of the United States ~~Department of State~~
 275 living in a foreign country who designate a state other than
 276 Florida as their place of residence and who do not reside in
 277 Florida for 6 months and 1 day of the year.

278 (19)~~(18)~~ "Suitability of the intended placement" includes
 279 the fitness of the intended placement, with primary
 280 consideration being given to the best interest of the child.

281 (20)~~(19)~~ "Unmarried biological father" means the child's
 282 biological father who is not married to the child's mother at
 283 the time of conception or birth of the child and who has not
 284 been declared by a court of competent jurisdiction to be the
 285 legal father of the child.

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

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

292 63.039 Duty of adoption entity to prospective adoptive
 293 parents; sanctions.--

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

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

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

307 (i) Obtain the written waiver of venue if applicable
 308 ~~required~~ under s. 63.062 ~~in cases in which venue for the~~
 309 ~~termination of parental rights will be located in a county other~~
 310 ~~than the county where a parent whose rights are to be terminated~~
 311 ~~resides.~~

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

314 63.0423 Procedures with respect to abandoned infants.--

315 (9)(a) A judgment terminating parental rights pending
 316 adoption involving a minor who was abandoned pursuant to this
 317 section is voidable, and any later judgment of adoption of that
 318 minor is voidable, if, upon the motion of a ~~birth~~ parent whose
 319 consent is required for adoption, the court finds that a person
 320 knowingly gave false information that prevented the ~~birth~~ parent
 321 from timely making known his or her desire to assume parental
 322 responsibilities toward the minor or from exercising his or her
 323 parental rights. A motion under this subsection must be filed
 324 with the court originally entering the judgment. The motion must
 325 be filed within a reasonable time, but not later than 1 year
 326 after the entry of the judgment terminating parental rights.

HB 1299 CS

2005
CS

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

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

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

353 Section 5. Section 63.0425, Florida Statutes, is amended
 354 to read:

HB 1299 CS

2005
CS

355 | 63.0425 Grandparent's right to notice ~~adopt~~.--

356 | (1) When a child has lived with a grandparent for at least
357 | 6 months within the 24-month period immediately preceding the
358 | filing of a petition for termination of parental rights pending
359 | adoption, the adoption entity shall provide notice to that
360 | grandparent of the hearing on the petition for termination of
361 | parental rights pending adoption.

362 | (2) This section shall not apply if the placement for
363 | adoption is a result of the death of the child's parent and a
364 | different preference is stated in the parent's will.

365 | (3) This section shall not apply in stepparent adoptions.

366 | (4) Nothing in this section shall contravene the
367 | provisions of s. 63.142(4).

368 | Section 6. Subsections (1) and (7) of section 63.052,
369 | Florida Statutes, are amended to read:

370 | 63.052 Guardians designated; proof of commitment.--

371 | (1) For minors who have been placed for adoption with ~~and~~
372 | ~~permanently committed to~~ an adoption entity, other than an
373 | intermediary, such adoption entity shall be the guardian of the
374 | person of the minor and has the responsibility and authority to
375 | provide for the needs and welfare of the minor.

376 | (7) The court retains jurisdiction of a minor who has been
377 | placed for adoption until the adoption is finalized within or
378 | outside this state ~~final~~. After a minor is placed with an
379 | adoption entity or prospective adoptive parent, the court may
380 | review the status of the minor and the progress toward permanent
381 | adoptive placement.

HB 1299 CS

2005
CS

382 Section 7. Subsection (1) of section 63.053, Florida
383 Statutes, is amended to read:

384 63.053 Rights and responsibilities of an unmarried
385 biological father; legislative findings.--

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

396 Section 8. Subsections (1), (5), (6), (7), and (8) of
397 section 63.054, Florida Statutes, are amended to read:

398 63.054 Actions required by an unmarried biological father
399 to establish parental rights; Florida Putative Father
400 Registry.--

401 (1) In order to preserve the right to notice and consent
402 to an adoption under this chapter, an unmarried biological
403 father must, as the "registrant," file a notarized claim of
404 paternity form with the Florida Putative Father Registry
405 maintained by the Office of Vital Statistics of the Department
406 of Health and shall include therein confirmation of his
407 willingness and intent to support the child for whom paternity
408 is claimed in accordance with state law. The claim of paternity
409 may be filed at any time prior to the child's birth, but a claim

HB 1299 CS

2005
CS

410 of paternity may not be filed after the date a petition is filed
 411 for termination of parental rights. The adoption entity shall
 412 provide the Department of Health with a notification of filing
 413 the petition for termination of parental rights. The Department
 414 of Health shall adopt by rule a form to be completed by the
 415 clerk of the court for notification of filing a petition for
 416 termination of parental rights.

417 (5) The registrant may, at any time prior to the birth of
 418 the child for whom paternity is claimed, execute a notarized
 419 written revocation of the claim of paternity previously filed
 420 with the Florida Putative Father Registry, and upon receipt of
 421 such revocation, the claim of paternity shall be deemed null and
 422 void. If a court determines that a registrant is not the father
 423 of the minor or has no parental rights, the court shall order
 424 the department to remove the registrant's name from the
 425 registry.

426 (6) It is the obligation of the registrant or, if
 427 designated under subsection (4), his designated agent or
 428 representative to notify and update the Office of Vital
 429 Statistics of any change of address or change in the designation
 430 of an agent or representative. The failure of a registrant, or
 431 designated agent or representative, to report any ~~such~~ change is
 432 at the registrant's own risk and shall not serve as a valid
 433 defense based upon lack of notice, and the adoption entity or
 434 petitioner shall have no further obligation to search for the
 435 registrant unless the person petitioning for termination of
 436 parental rights or adoption has actual ~~or constructive~~ notice of
 437 the registrant's address and whereabouts from another source.

HB 1299 CS

2005
CS

438 (7) In each proceeding for termination of parental rights
 439 or each adoption proceeding in which parental rights are being
 440 terminated simultaneously with entry of the final judgment of
 441 adoption, as in stepparent and relative adoptions filed under
 442 this chapter, the petitioner must contact the Office of Vital
 443 Statistics of the Department of Health by submitting an
 444 application for a search of the Florida Putative Father
 445 Registry. The petitioner shall provide the same information, if
 446 known, on the search application form which the registrant is
 447 required to furnish under subsection (3). Thereafter, the Office
 448 of Vital Statistics must issue a certificate signed by the State
 449 Registrar certifying:

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

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

458
 459 The ~~This~~ certificate must be filed with the court in the
 460 proceeding to terminate parental rights or the adoption
 461 proceeding. If a termination of parental rights and an adoption
 462 proceeding are being adjudicated separately ~~simultaneously~~, the
 463 Florida Putative Father Registry need only be searched once.

464 (8) If an unmarried biological father does not know the
 465 county in which the birth mother resides, gave birth, or intends

HB 1299 CS

2005
CS

466 to give birth, he may initiate an action in any county in the
 467 state, subject to the court's discretion to change venue in
 468 accordance with s. 63.087 ~~subject to the birth mother's right to~~
 469 ~~change venue to the county where she resides.~~

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

472 63.062 Persons required to consent to adoption; affidavit
 473 of nonpaternity; waiver of venue.--

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

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

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

492 b. Maintained regular communication with the child or with
 493 the person or agency having the care or custody of the child,

494 when physically or financially unable to visit the child and ~~or~~
 495 when not prevented from doing so by the birth mother or person
 496 or authorized agency having lawful custody of the child.

497 2. The mere fact that an unmarried biological father
 498 expresses a desire to fulfill his responsibilities towards his
 499 child which is unsupported by acts evidencing this intent does
 500 not preclude a finding by the court that the unmarried
 501 biological father failed to comply with the requirements of this
 502 subsection.

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

511 (b) With regard to a child who is younger than 6 months of
 512 age at the time the child is placed with the adoptive parents,
 513 an unmarried biological father must have demonstrated a full
 514 commitment to his parental responsibility by having performed
 515 all of the following acts before ~~prior to~~ the time the mother
 516 executes her consent for adoption or a petition for termination
 517 of parental rights has been filed, whichever is earlier:

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

HB 1299 CS

2005
CS

522 purpose and shall be considered filed when the notice is entered
523 in the registry of notices from unmarried biological fathers.

524 2. Upon service of a notice of an intended adoption plan
525 or a petition for termination of parental rights pending
526 adoption, timely execute ~~executed~~ and file ~~filed~~ an affidavit in
527 that proceeding stating that he is personally fully able and
528 willing to take responsibility for the child, setting forth his
529 plans for care of the child, and agreeing to a court order of
530 child support and a contribution to the payment of living and
531 medical expenses incurred for the mother's pregnancy and the
532 child's birth in accordance with his ability to pay.

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

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

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

556 (3)(a) ~~Under Pursuant to~~ chapter 48, an adoption entity
 557 may serve upon any unmarried biological father identified by the
 558 mother or identified by a diligent search of the Florida
 559 Putative Father Registry, or upon an entity whose consent is
 560 required, a notice of intended adoption plan at any time before
 561 the child's birth or before placing ~~prior to the placement of~~
 562 ~~the child in the adoptive home, including prior to the birth of~~
 563 ~~the child~~. The notice of intended adoption plan must
 564 specifically state that if the unmarried biological father
 565 desires to contest the adoption plan, he must file with the
 566 court, within 30 days after service, a verified response that
 567 contains a pledge of commitment to the child in substantial
 568 compliance with subparagraph (2)(b)2. The notice of intended
 569 adoption plan shall notify the unmarried biological father that,
 570 if he has not already done so, he must file a claim of paternity
 571 form with the Office of Vital Statistics within 30 days after
 572 service upon him and must provide the adoption entity with a
 573 copy of the verified response filed with the court and the claim
 574 of paternity form filed with the Office of Vital Statistics. If
 575 the party served with the notice of intended adoption plan is an
 576 entity, the entity must file, within 30 days after service, a

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

594 | (b) If the birth mother identifies a man who she believes
 595 | is the unmarried biological father of her child, the adoption
 596 | entity may provide a notice of intended adoption plan pursuant
 597 | to paragraph (a). If the mother identifies a potential unmarried
 598 | biological father whose location is unknown, the adoption entity
 599 | shall conduct a diligent search pursuant to s. 63.088. If, upon
 600 | completion of a diligent search, the potential unmarried
 601 | biological father's location remains unknown and a search of the
 602 | Florida Putative Father Registry fails to reveal a match, the
 603 | adoption entity shall request in the petition for termination of
 604 | parental rights pending adoption that the court declare the

605 diligent search to be in compliance with s. 63.088 and to
 606 further declare that the adoption entity shall have no further
 607 obligation to provide notice to the potential unmarried
 608 biological father and that the potential unmarried biological
 609 father's consent to the adoption shall not be required.

610 (4) Any person whose consent is required under paragraph
 611 (1)(b), or any other man, ~~paragraphs (1)(c)-(e)~~ may execute an
 612 irrevocable affidavit of nonpaternity in lieu of a consent under
 613 this section and by doing so waives notice to all court
 614 proceedings after the date of execution. An affidavit of
 615 nonpaternity must be executed as provided in s. 63.082. The
 616 affidavit of nonpaternity may be executed before ~~prior to~~ the
 617 birth of the child. The person executing the affidavit must
 618 receive disclosure under s. 63.085 before ~~prior to~~ signing the
 619 affidavit.

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

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

623 (b) Written notice of the final hearing on the adoption
 624 has been provided to the parents, if any, or proof of service of
 625 process has been filed, showing notice has been served on the
 626 parents as provided in this chapter.

627 (9) A petition for termination of parental rights shall be
 628 filed in the appropriate county as determined under s.
 629 63.087(2). If any ~~the~~ parent ~~or parents~~ whose consent is
 630 required objects ~~rights are to be terminated object~~ to venue in
 631 the county where the action was filed, the court may transfer
 632 venue to a proper venue consistent with this chapter and chapter

633 | ~~47 the action to the county where the objecting parent or~~
 634 | ~~parents reside~~, unless the objecting parent has previously
 635 | executed a waiver of venue.

636 | Section 10. Paragraph (d) of subsection (1), paragraphs
 637 | (b), (c), and (e) of subsection (4), subsections (5) and (6),
 638 | and paragraphs (a), (b), (c), (d), and (f) of subsection (7) of
 639 | section 63.082, Florida Statutes, are amended to read:

640 | 63.082 Execution of consent to adoption or affidavit of
 641 | nonpaternity; family social and medical history; withdrawal of
 642 | consent.--

643 | (1)

644 | (d) The notice and consent provisions of this chapter as
 645 | they relate to the birth of a child or to legal fathers do not
 646 | apply in cases in which the child is conceived as a result of a
 647 | violation of the criminal laws of this or another state,
 648 | including, but not limited to, sexual battery, unlawful sexual
 649 | activity with certain minors under s. 794.05, lewd acts
 650 | perpetrated upon a minor, or incest.

651 | (4)

652 | (b) A consent to the adoption of a minor who is to be
 653 | placed for adoption shall not be executed by the birth mother
 654 | sooner than 48 hours after the minor's birth or the day the
 655 | birth mother has been notified in writing, either on her patient
 656 | chart or in release paperwork, that she is fit to be released
 657 | from the licensed hospital or birth center, whichever is
 658 | earlier. A consent by any man ~~a biological father or legal~~
 659 | ~~father~~ may be executed at any time after the birth of the child.
 660 | A consent executed under this paragraph is valid upon execution

HB 1299 CS

2005
CS

661 and may be withdrawn only if the court finds that it was
662 obtained by fraud or duress.

663 (c) When the minor to be adopted is older than 6 months of
664 age at the time of the execution of the consent, the consent to
665 adoption is valid upon execution; however, it is subject to a 3-
666 day revocation period ~~or may be revoked at any time prior to the~~
667 ~~placement of the minor with the prospective adoptive parents,~~
668 ~~whichever is later.~~ If a consent has been executed, this
669 subsection may not be construed to provide a birth parent with
670 more than 3 days to revoke the consent once the child has been
671 placed with the prospective adoptive parents.

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

675 CONSENT TO ADOPTION

676
677 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT
678 HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH
679 THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE
680 PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A
681 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE
682 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR
683 WITNESSES YOU SELECTED, IF ANY.
684 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE
685 FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS
686 CONSENT:

- 687 1. CONSULT WITH AN ATTORNEY;

HB 1299 CS

2005
CS

688 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE
689 LEGALLY PROHIBITED;

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

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

694 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE
695 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.
696 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO
697 YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE
698 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP
699 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED
700 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL
701 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE
702 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT
703 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
704 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN
705 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT
706 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
707 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY
708 BE EXECUTED. ANY MAN ~~A BIOLOGICAL FATHER~~ MAY EXECUTE A CONSENT
709 AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED
710 THE CONSENT, IT IS VALID, BINDING, AND IRREVOCABLE AND CANNOT BE
711 WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
712 DURESS.

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

HB 1299 CS

2005
CS

715 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT
716 YOU WISH TO WITHDRAW YOUR CONSENT; AND

717 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD
718 OR DURESS.

719
720 This statement of rights is not required for the adoption of a
721 relative, an adult, a stepchild, or a child older than 6 months
722 of age. A consent form for the adoption of a child older than 6
723 months of age at the time of execution of consent must contain a
724 statement outlining the revocation rights provided in paragraph
725 (c).

726 (5) A copy or duplicate original of each consent signed
727 under this chapter ~~in an action for termination of parental~~
728 ~~rights pending adoption~~ must be provided to the person who
729 executed the consent to adoption. The copy must be hand
730 delivered, with a written acknowledgment of receipt signed by
731 the person whose consent is required at the time of execution.
732 If a copy of a consent cannot be provided as required in this
733 subsection, the adoption entity must execute an affidavit
734 stating why the copy of the consent was not delivered. The
735 original consent and acknowledgment of receipt, or an affidavit
736 stating why the copy of the consent was not delivered, must be
737 filed with the petition for termination of parental rights
738 pending adoption.

739 (6)(a) If a ~~birth~~ parent executes a consent for placement
740 of a minor with an adoption entity or qualified prospective
741 adoptive parents and the minor child is in the custody of the
742 department, but parental rights have not yet been terminated,

743 | the adoption consent shall be valid, binding, and enforceable by
744 | the court.

745 | (b) Upon execution of the consent of the ~~birth~~ parent, the
746 | adoption entity shall be permitted to intervene in the
747 | dependency case as a party in interest and shall provide the
748 | court having jurisdiction over the minor pursuant to the shelter
749 | or dependency petition filed by the department with a copy of
750 | the preliminary home study of the prospective adoptive parents
751 | and any other evidence of the suitability of the placement. The
752 | preliminary home study shall be maintained with strictest
753 | confidentiality within the dependency court file and the
754 | department's file. A preliminary home study must be provided to
755 | the court in all cases in which an adoption entity has
756 | intervened under ~~pursuant to~~ this section.

757 | (c) Upon a determination by the court that the prospective
758 | adoptive parents have met the requirements of this chapter ~~are~~
759 | ~~properly qualified~~ to adopt the minor child and that the
760 | adoption appears to be in the best interest of the minor child,
761 | the court shall immediately order the transfer of custody of the
762 | minor child to the prospective adoptive parents, under the
763 | supervision of the adoption entity. If the department is no
764 | longer pursuing a termination of parental rights or dependency
765 | case over the child, the adoption entity shall thereafter
766 | provide monthly supervision reports to the court, only if
767 | required, ~~department~~ until finalization of the adoption.

768 | (d) In determining whether the best interest of the child
769 | will be served by transferring the custody of the minor child to
770 | the prospective adoptive parent selected by the ~~birth~~ parent,

771 the court shall give consideration to the rights of the ~~birth~~
 772 parent to determine an appropriate placement for the child, the
 773 permanency offered, the child's bonding with any potential
 774 adoptive home that the child has been residing in, and the
 775 importance of maintaining sibling relationships, if possible.

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

784 (b) Upon receiving timely written notice from a person
 785 whose consent to adoption is required of that person's desire to
 786 withdraw consent to adoption, the adoption entity must contact
 787 the prospective adoptive parent to arrange a time certain for
 788 the adoption entity to regain physical custody of the minor,
 789 unless, upon a motion for emergency hearing by the adoption
 790 entity, the court determines in written findings that placement
 791 of the minor with the person who had legal or physical custody
 792 of the child immediately before placing the child for adoption
 793 ~~withdrawing consent~~ may endanger the minor, or that the person
 794 who desires to withdraw consent to the adoption would not be
 795 required to consent to the adoption, ~~or~~ has been determined to
 796 have abandoned the child, or may otherwise be subject to the
 797 consent being waived under this chapter.

HB 1299 CS

2005
CS

798 (c) If the court finds that the ~~such~~ placement may
 799 endanger the minor, the court must enter an order regarding
 800 continued placement of the minor. The order shall direct
 801 continued placement with the prospective adoptive parents
 802 pending further proceedings if they desire continued placement.
 803 If the prospective adoptive parents do not desire continued
 804 placement, the order shall include, but not be limited to,
 805 whether temporary placement in foster care, with the person who
 806 had legal or physical custody of the child immediately before
 807 placing the child for adoption, or with a relative is in the
 808 best interest of the child and is appropriate, whether an
 809 investigation by the department is recommended, ~~and whether a~~
 810 ~~relative is available for the temporary placement.~~

811 (d) If the person withdrawing a required consent claims to
 812 be the father of the minor but has not been established to be
 813 the father by marriage, court order, or scientific testing, the
 814 court may order scientific paternity testing upon a showing that
 815 the testing is in compliance with state law and reserve ruling
 816 ~~on removal of the minor until the results of such testing have~~
 817 ~~been filed with the court.~~

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

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

825 63.085 Disclosure by adoption entity.--

826 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
 827 ADOPTIVE PARENTS.--Not later than 14 days after a person seeking
 828 to adopt a minor or a person seeking to place a minor for
 829 adoption contacts an adoption entity in person or provides the
 830 adoption entity with a mailing address, the entity must provide
 831 a written disclosure statement to that person if the entity
 832 agrees or continues to work with the ~~such~~ person. If an adoption
 833 entity is assisting in the effort to terminate the parental
 834 rights of a parent who did not initiate ~~the~~ contact with the
 835 adoption entity, the written disclosure must be provided within
 836 14 days after that parent is identified and located. For
 837 purposes of providing the written disclosure, a person is
 838 considered to be seeking to place a minor for adoption when that
 839 person has sought information or advice from the adoption entity
 840 regarding the option of adoptive placement. The written
 841 disclosure statement must be in substantially the following
 842 form:

843 ADOPTION DISCLOSURE

844
 845 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL
 846 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR
 847 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
 848 ADOPTION UNDER FLORIDA LAW:

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

851 Name:

852 Address:

853 Telephone Number:

854 2. The adoption entity does not provide legal
855 representation or advice to birth parents, and birth parents
856 have the right to consult with an attorney of their own choosing
857 to advise them.

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

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

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

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

880 7. There are alternatives to adoption, including foster
881 care, relative care, and parenting the child. There may be

882 services and sources of financial assistance in the community
883 available to birth parents if they choose to parent the child.

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

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

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

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

899 Section 12. Section 63.087, Florida Statutes, is amended
900 to read:

901 63.087 Proceeding to terminate parental rights pending
902 adoption; general provisions.--

903 (1) JURISDICTION.--A court of this state which is
904 competent to decide child welfare or custody matters has
905 jurisdiction to hear all matters arising from a proceeding to
906 terminate parental rights pending adoption.

907 (2) VENUE.--

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

HB 1299 CS

2005
CS

910 1. In the county where the child resides;

911 ~~2. If the child does not reside in the State of Florida,~~

912 ~~in the county where the adoption entity is located;~~

913 2.3. In the county where the adoption entity is located;

914 or

915 3.4. If neither parent resides in the state, in the county

916 where the adoption entity is located. The fact of the minor's

917 presence within the state confers jurisdiction on the court in

918 proceedings in the minor's case under this chapter, or to a

919 parent or guardian if due notice has been given.

920 (b) If a petition for termination of parental rights has

921 been filed and a parent whose consent is required ~~rights are to~~

922 ~~be terminated~~ objects to venue, there must be a hearing in which

923 the court shall determine whether that parent intends to assert

924 legally recognized grounds to contest a termination of parental

925 rights and, if so, the court may ~~shall immediately~~ transfer

926 venue to a proper venue under this subsection ~~the county where~~

927 ~~that parent resides or resided at the time of the execution of~~

928 ~~the consent~~. For purposes of selecting venue, the court shall

929 consider the ease of access to the court for the parent and the

930 factors set forth in s. 47.122 ~~who intends to contest a~~

931 ~~termination of parental rights~~.

932 (c) If there is a transfer of venue, the court may

933 determine which party shall bear the cost of venue transfer.

934

935 For purposes of the hearing under this subsection, witnesses

936 located in another jurisdiction may testify by deposition or

937 testify by telephone, audiovisual means, or other electronic

938 means before a designated court or at another location.
 939 Documentary evidence transmitted from another location by
 940 technological means that do not produce an original writing may
 941 not be excluded from evidence on an objection based on the means
 942 of transmission. The court on its own motion may otherwise
 943 prescribe the manner in which and the terms upon which the
 944 testimony is taken.

945 (3) PREREQUISITE FOR ADOPTION.--A petition for adoption
 946 may not be filed until after the date the court enters the
 947 judgment terminating parental rights pending adoption ~~under this~~
 948 ~~chapter or under chapter 39~~. Adoptions of relatives, adult
 949 adoptions, or adoptions of stepchildren shall not be required to
 950 file a separate termination of parental rights proceeding
 951 pending adoption. In such cases, the petitioner may file a joint
 952 petition for termination of parental rights and adoption
 953 attaching all required consents, affidavits, notices, and
 954 acknowledgments ~~shall be attached to the petition for adoption~~
 955 ~~or filed separately in the adoption proceeding~~. All provisions
 956 of this chapter apply to these joint petitions unless otherwise
 957 provided by law.

958 (4) PETITION.--

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

963 (b) The petition may be filed by a parent or person having
 964 physical or legal custody of the minor. The petition may be
 965 filed by an adoption entity only if a parent or person having

HB 1299 CS

2005
CS

966 physical or legal custody who has executed a consent to adoption
 967 under ~~pursuant to~~ s. 63.082 also consents in writing to the
 968 adoption entity filing the petition. The original of the ~~such~~
 969 consent must be filed with the petition.

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

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

980 (e) The petition must include:

981 1. The minor's name, gender, date of birth, and place of
 982 birth. The petition must contain all names by which the minor is
 983 or has been known, excluding the minor's prospective adoptive
 984 name but including the minor's legal name at the time of the
 985 filing of the petition. In the case of an infant child whose
 986 adoptive name appears on the original birth certificate, the
 987 adoptive name shall not be included in the petition, nor shall
 988 it be included elsewhere in the termination of parental rights
 989 proceeding unless the proceedings are filed according to s.
 990 63.102(6).

991 2. All information required by the Uniform Child Custody
 992 Jurisdiction and Enforcement Act and the Indian Child Welfare

HB 1299 CS

2005
CS

993 Act, except the names and addresses of the adoptive parents,
 994 which shall be kept confidential as required by s. 63.162.

995 3. A statement of the grounds under s. 63.089 upon which
 996 the petition is based.

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

999 5. The name, address, and telephone number of the division
 1000 of the circuit court in which the petition is to be filed.

1001 6. A certification of compliance with the requirements of
 1002 s. 63.0425 regarding notice to grandparents of an impending
 1003 adoption.

1004 (5) SUMMONS TO BE ISSUED.--The petitioner shall cause a
 1005 summons to be issued substantially in the form provided in Form
 1006 1.902, Florida Rules of Civil Procedure. The Petition and
 1007 summons and a copy of the petition shall be served upon any
 1008 person who executed a ~~whose~~ consent to adoption or affidavit of
 1009 nonpaternity ~~has been provided~~ but who has not waived service of
 1010 the pleadings and notice of the hearing thereon and also upon
 1011 any person whose consent to adoption is required under s.
 1012 63.062, but who has not provided that consent or an affidavit of
 1013 nonpaternity.

1014 (6) ANSWER AND APPEARANCE REQUIRED.--An answer to the
 1015 petition or any pleading requiring an answer shall be timely
 1016 filed in accordance with the Florida Rules of Civil Procedure.
 1017 Failure to file a written response or to appear at the hearing
 1018 on the petition constitutes grounds upon which the court may
 1019 terminate parental rights. Failure to appear at the hearing
 1020 constitutes grounds upon which the court may terminate parental

HB 1299 CS

2005
CS

1021 ~~rights. The petitioner shall provide notice of the final hearing~~
 1022 ~~by United States mail to any person who has been served with the~~
 1023 ~~summons and petition for termination of parental rights within~~
 1024 ~~the specified time periods. Notwithstanding the filing of any~~
 1025 ~~answer or any pleading,~~ Any person present at the hearing to
 1026 terminate parental rights pending adoption whose consent to
 1027 adoption is required under s. 63.062 must:

1028 (a) Be advised by the court that he or she has a right to
 1029 ask that the hearing be reset for a later date so that the
 1030 person may consult with an attorney; and

1031 (b) Be given an opportunity to admit or deny the
 1032 allegations in the petition.

1033 Section 13. Subsections (2), (3), (5), and (6) of section
 1034 63.088, Florida Statutes, are amended to read:

1035 63.088 Proceeding to terminate parental rights pending
 1036 adoption; notice and service; diligent search.--

1037 (2) IDENTITY KNOWN AND LOCATION UNKNOWN; PROCEDURES TO
 1038 INITIATE IDENTIFICATION OF LOCATION PROCEDURES.--When the
 1039 location of a person whose consent to an adoption is required
 1040 but is unknown ~~not known~~, the adoption entity must begin the
 1041 inquiry and diligent search process required by this section
 1042 within a reasonable time period after the date on which the
 1043 person seeking to place a minor for adoption has evidenced in
 1044 writing to the adoption entity a desire to place the minor for
 1045 adoption with that entity, or not later than 30 days after the
 1046 date any money is provided as permitted under this chapter by
 1047 the adoption entity for the benefit of the person seeking to
 1048 place a minor for adoption.

HB 1299 CS

2005
CS

1049 (3) LOCATION AND IDENTITY KNOWN.--Before the court may
 1050 determine that a minor is available for adoption, and in
 1051 addition to the other requirements set forth in this chapter,
 1052 each person whose consent is required under s. 63.062, who has
 1053 not executed a consent or an affidavit of nonpaternity, and
 1054 whose location and identity have been determined by compliance
 1055 with the procedures in this section must be personally served,
 1056 pursuant to chapter 48, at least 20 days before the hearing with
 1057 a copy of the summons and a copy of the petition to terminate
 1058 parental rights pending adoption as provided under s. 63.087(5)
 1059 and with notice in substantially the following form:

1060
 1061 NOTICE OF PETITION AND HEARING
 1062 TO TERMINATE PARENTAL RIGHTS
 1063 PENDING ADOPTION
 1064

1065 A petition to terminate parental rights pending adoption
 1066 has been filed. A copy of the petition is being served
 1067 with this notice. There will be a hearing on the petition
 1068 to terminate parental rights pending adoption on (date) at
 1069 (time) before (judge) at (location, including complete
 1070 name and street address of the courthouse). The court has
 1071 set aside (amount of time) for this hearing.

1072
 1073 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO TIMELY
 1074 FILE A WRITTEN RESPONSE TO THE PETITION AND THIS NOTICE
 1075 WITH THE COURT AND ~~OR~~ TO APPEAR AT THIS HEARING
 1076 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY

HB 1299 CS

2005
CS

1077 PARENTAL RIGHTS YOU MAY HAVE OR ASSERT REGARDING THE MINOR
1078 CHILD.

1079

1080 (5) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry by
1081 the court under subsection (4) identifies any person whose
1082 consent to adoption is required under s. 63.062 and who has not
1083 executed a consent to adoption or an affidavit of nonpaternity,
1084 and the location of the person from whom consent is required is
1085 unknown, the adoption entity must conduct a diligent search for
1086 that person which must include inquiries concerning:

1087 (a) The person's current address, or any previous address,
1088 through an inquiry of the United States Postal Service through
1089 the Freedom of Information Act;

1090 (b) The last known employment of the person, including the
1091 name and address of the person's employer;

1092 (c) Regulatory agencies, ~~including those~~ regulating
1093 professional licensing in the area where the person last
1094 resided;

1095 (d) Names and addresses of relatives to the extent such
1096 can be reasonably obtained from the petitioner or other sources,
1097 contacts with those relatives, and inquiry as to the person's
1098 last known address. The petitioner shall pursue any leads of any
1099 addresses to which the person may have moved;

1100 (e) Information as to whether or not the person may have
1101 died and, if so, the date and location;

1102 (f) Telephone listings in the area where the person last
1103 resided;

HB 1299 CS

2005
CS

- 1104 (g) Inquiries of law enforcement agencies in the area
- 1105 where the person last resided;
- 1106 (h) Highway patrol records in the state where the person
- 1107 last resided;
- 1108 (i) Department of Corrections records in the state where
- 1109 the person last resided;
- 1110 (j) Hospitals in the area where the person last resided;
- 1111 (k) Records of utility companies, including water, sewer,
- 1112 cable television, and electric companies, in the area where the
- 1113 person last resided;
- 1114 (l) Records of the Armed Forces of the United States as to
- 1115 whether there is any information as to the person;
- 1116 (m) Records of the tax assessor and tax collector in the
- 1117 area where the person last resided; and
- 1118 (n) Search of one Internet databank locator service.

1119

1120 Any person contacted by a petitioner or adoption entity when

1121 requesting information under this subsection must release the

1122 requested information to the petitioner or adoption entity,

1123 except when prohibited by law, without the necessity of a

1124 subpoena or a court order. An affidavit of diligent search

1125 ~~executed by the petitioner and the adoption entity~~ must be filed

1126 with the court ~~confirming completion of each aspect of the~~

1127 ~~diligent search enumerated in this subsection and specifying the~~

1128 ~~results.~~ The diligent search required under this subsection may

1129 be conducted before the birth of the minor.

- 1130 (6) CONSTRUCTIVE SERVICE.--This subsection only applies
- 1131 if, as to any person whose consent is required under s. 63.062

HB 1299 CS

2005
CS

1132 and who has not executed a consent to adoption or an affidavit
 1133 of nonpaternity, the location of the person is unknown and the
 1134 inquiry under subsection (4) fails to locate the person. The
 1135 unlocated person must be served notice under subsection (3) by
 1136 constructive service in the manner provided in chapter 49. The
 1137 notice shall be published in the county where the person was
 1138 last known to have resided. The notice, in addition to all
 1139 information required under chapter 49, must include a physical
 1140 description, including, but not limited to, age, race, hair and
 1141 eye color, and approximate height and weight of the person, the
 1142 minor's date of birth, and the place of birth of the minor.
 1143 Constructive service by publication shall not be required to
 1144 provide notice to a ~~an identified~~ birth father whose consent is
 1145 not required under ~~pursuant to~~ ss. 63.062 and 63.064.

1146 Section 14. Section 63.089, Florida Statutes, is amended
 1147 to read:

1148 63.089 Proceeding to terminate parental rights pending
 1149 adoption; hearing; grounds; dismissal of petition; judgment.--

1150 (1) HEARING.--The court may terminate parental rights
 1151 pending adoption only after a hearing.

1152 (2) HEARING PREREQUISITES.--The court may hold the hearing
 1153 only when:

1154 (a) For each person whose consent to adoption is required
 1155 under s. 63.062:

1156 1. A consent under s. 63.082 has been executed and filed
 1157 with the court;

1158 2. An affidavit of nonpaternity under s. 63.082 has been
 1159 executed and filed with the court;

HB 1299 CS

2005
CS

1160 3. Notice has been provided under ss. 63.087 and 63.088;
1161 or

1162 4. The certificate from the Office of Vital Statistics has
1163 been provided to the court stating that a diligent search has
1164 been made of the Florida Putative Father Registry created in s.
1165 63.054 and that no filing has been found pertaining to the
1166 father of the child in question or, if a filing is found,
1167 stating the name of the putative father and the time and date of
1168 the filing.

1169 (b) For each notice and petition that must be served under
1170 ss. 63.087 and 63.088:

1171 1. At least 20 days have elapsed since the date of
1172 personal service of process and an affidavit of service has been
1173 filed with the court;

1174 2. At least 30 days have elapsed since the first date of
1175 publication of constructive service and an affidavit of service
1176 has been filed with the court; or

1177 3. An affidavit of nonpaternity, consent for adoption, or
1178 other document that ~~which~~ affirmatively waives service has been
1179 executed and filed with the court;

1180 (c) The minor named in the petition has been born; and

1181 (d) The petition contains all information required under
1182 s. 63.087 and all affidavits of inquiry, diligent search, and
1183 service required under s. 63.088 have been obtained and filed
1184 with the court.

1185 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
1186 ADOPTION.--The court may enter a judgment terminating parental
1187 rights pending adoption if the court determines by clear and

HB 1299 CS

2005
CS

1188 | convincing evidence, supported by written findings of fact, that
 1189 | each person whose consent to adoption is required under s.
 1190 | 63.062:

1191 | (a) Has executed a valid consent under s. 63.082 and the
 1192 | consent was obtained according to the requirements of this
 1193 | chapter;

1194 | (b) Has executed an affidavit of nonpaternity and the
 1195 | affidavit was obtained according to the requirements of this
 1196 | chapter;

1197 | (c) Has been served with a notice of the intended adoption
 1198 | plan in accordance with the provisions of s. 63.062(3) and has
 1199 | failed to respond within the designated time period;

1200 | (d) Has been properly served notice of the proceeding in
 1201 | accordance with the requirements of this chapter and has failed
 1202 | to file a written answer and ~~or~~ appear at the evidentiary
 1203 | hearing resulting in the judgment terminating parental rights
 1204 | pending adoption;

1205 | (e) Has been properly served notice of the proceeding in
 1206 | accordance with the requirements of this chapter and has been
 1207 | determined under subsection (4) to have abandoned the minor as
 1208 | defined in s. 63.032;

1209 | (f) Is a parent of the person to be adopted, which parent
 1210 | has been judicially declared incapacitated with restoration of
 1211 | competency found to be medically improbable;

1212 | (g) Is a person who has legal custody of the person to be
 1213 | adopted, other than a parent, who has failed to respond in
 1214 | writing to a request for consent for a period of 60 days or,
 1215 | after examination of his or her written reasons for withholding

1216 consent, is found by the court to be withholding his or her
1217 consent unreasonably;

1218 (h) Has been properly served notice of the proceeding in
1219 accordance with the requirements of this chapter, but has been
1220 found by the court, after examining written reasons for the
1221 withholding of consent, to be unreasonably withholding his or
1222 her consent; or

1223 (i) Is the spouse of the person to be adopted who has
1224 failed to consent, and the failure of the spouse to consent to
1225 the adoption is excused by reason of prolonged and unexplained
1226 absence, unavailability, incapacity, or circumstances that are
1227 found by the court to constitute unreasonable withholding of
1228 consent.

1229 (4) FINDING OF ABANDONMENT.--A finding of abandonment
1230 resulting in a termination of parental rights must be based upon
1231 clear and convincing evidence that a parent or person having
1232 legal custody has abandoned the child in accordance with the
1233 definition contained in s. 63.032(1). A finding of abandonment
1234 may be based upon emotional abuse or a refusal to provide
1235 reasonable financial support, when able, to a birth mother
1236 during her pregnancy. If, in the opinion of the court, the
1237 efforts of a parent or person having legal custody of the child
1238 to support and communicate with the child are only marginal
1239 efforts that do not evince a settled purpose to assume all
1240 parental duties, the court may declare the child to be
1241 abandoned. In making this decision, the court may consider the
1242 conduct of a father toward the child's mother during her
1243 pregnancy.

HB 1299 CS

2005
CS

1244 (a) In making a determination of abandonment at a hearing
 1245 for termination of parental rights under ~~pursuant to~~ this
 1246 chapter, the court must consider, among other relevant factors
 1247 not inconsistent with this section:

1248 1. Whether the actions alleged to constitute abandonment
 1249 demonstrate a willful disregard for the safety or welfare of the
 1250 child or unborn child;

1251 2. Whether the person alleged to have abandoned the child,
 1252 while being able, failed to provide financial support;

1253 3. Whether the person alleged to have abandoned the child,
 1254 while being able, failed to pay for medical treatment; and

1255 4. Whether the amount of support provided or medical
 1256 expenses paid was appropriate, taking into consideration the
 1257 needs of the child and relative means and resources available to
 1258 the person alleged to have abandoned the child.

1259 (b) The child has been abandoned when the parent of a
 1260 child is incarcerated on or after October 1, 2001, in a state or
 1261 federal correctional institution and:

1262 1. The period of time for which the parent has been or is
 1263 expected to be incarcerated will constitute a significant
 1264 ~~substantial~~ portion of the child's minority ~~period of time~~
 1265 ~~before the child will attain the age of 18 years;~~

1266 2. The incarcerated parent has been determined by the
 1267 court to be a violent career criminal as defined in s. 775.084,
 1268 a habitual violent felony offender as defined in s. 775.084,
 1269 convicted of child abuse as defined in s. 827.03, or a sexual
 1270 predator as defined in s. 775.21; has been convicted of first
 1271 degree or second degree murder in violation of s. 782.04 or a

HB 1299 CS

2005
CS

1272 sexual battery that constitutes a capital, life, or first degree
 1273 felony violation of s. 794.011; or has been convicted of an
 1274 offense in another jurisdiction which is substantially similar
 1275 to one of the offenses listed in this subparagraph. As used in
 1276 this section, the term "substantially similar offense" means any
 1277 offense that is substantially similar in elements and penalties
 1278 to one of those listed in this subparagraph, and that is in
 1279 violation of a law of any other jurisdiction, whether that of
 1280 another state, the District of Columbia, the United States or
 1281 any possession or territory thereof, or any foreign
 1282 jurisdiction; or

1283 3. The court determines by clear and convincing evidence
 1284 that continuing the parental relationship with the incarcerated
 1285 parent would be harmful to the child and, for this reason, that
 1286 termination of the parental rights of the incarcerated parent is
 1287 in the best interest of the child.

1288 (5) DISMISSAL OF PETITION.--If the court does not find by
 1289 clear and convincing evidence that parental rights of a parent
 1290 should be terminated pending adoption, the court must dismiss
 1291 the petition and that parent's parental rights that were the
 1292 subject of such petition shall remain in full force under the
 1293 law. The order must include written findings in support of the
 1294 dismissal, including findings as to the criteria in subsection
 1295 (4) if rejecting a claim of abandonment. Parental rights may not
 1296 be terminated based upon a consent that the court finds has been
 1297 timely withdrawn under s. 63.082 or a consent to adoption or
 1298 affidavit of nonpaternity that the court finds was obtained by
 1299 fraud or duress. The court must enter an order based upon

HB 1299 CS

2005
CS

1300 written findings providing for the placement of the minor. The
 1301 court may order scientific testing to determine the paternity of
 1302 the minor at any time during which the court has jurisdiction
 1303 over the minor, upon a showing that the testing is in compliance
 1304 with state law. Further proceedings, if any, regarding the minor
 1305 must be brought in a separate custody action under chapter 61, a
 1306 dependency action under chapter 39, or a paternity action under
 1307 chapter 742.

1308 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
 1309 ADOPTION.--

1310 (a) The judgment terminating parental rights pending
 1311 adoption must be in writing and contain findings of fact as to
 1312 the grounds for terminating parental rights pending adoption.

1313 (b) Within 7 days after filing, the court shall mail a
 1314 copy of the judgment to the department. The clerk shall execute
 1315 a certificate of the ~~such~~ mailing.

1316 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.--

1317 (a) A motion for relief from a judgment terminating
 1318 parental rights must be filed with the court originally entering
 1319 the judgment. The motion must be filed within a reasonable time,
 1320 but not later than 1 year after the entry of the judgment
 1321 terminating parental rights.

1322 (b) No later than 30 days after the filing of a motion
 1323 under this subsection, the court must conduct a preliminary
 1324 hearing to determine what contact, if any, shall be permitted
 1325 between a parent and the child pending resolution of the motion.
 1326 The ~~Such~~ contact shall be considered only if it is requested by
 1327 a parent who has appeared at the hearing. If the court orders

HB 1299 CS

2005
CS

1328 | contact between a parent and child, the order must be issued in
 1329 | writing as expeditiously as possible and must state with
 1330 | specificity the terms ~~any provisions~~ regarding contact with
 1331 | persons other than those with whom the child resides.

1332 | (c) At the preliminary hearing, the court, upon the motion
 1333 | of any party or upon its own motion, may order scientific
 1334 | testing to determine the paternity of the minor if the person
 1335 | seeking to set aside the judgment is a person whose consent is
 1336 | required alleging to be the child's father and that fact has not
 1337 | previously been determined by legitimacy or scientific testing,
 1338 | and if the testing is in compliance with state law. The court
 1339 | may order visitation with a person for whom scientific testing
 1340 | for paternity has been ordered and who has previously
 1341 | established a bonded relationship with the child.

1342 | (d) Unless otherwise agreed between the parties or for
 1343 | good cause shown, the court shall conduct a final hearing on the
 1344 | motion for relief from judgment within 45 days after the filing
 1345 | and enter its written order as expeditiously as possible
 1346 | thereafter.

1347 | (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
 1348 | records pertaining to a petition to terminate parental rights
 1349 | pending adoption are related to the subsequent adoption of the
 1350 | minor and are subject to ~~the provisions of~~ s. 63.162. The
 1351 | confidentiality provisions of this chapter do not apply to the
 1352 | extent information regarding persons or proceedings must be made
 1353 | available as specified under s. 63.088.

1354 | Section 15. Section 63.092, Florida Statutes, is amended
 1355 | to read:

HB 1299 CS

2005
CS

1356 63.092 Report to the court of intended placement by an
 1357 adoption entity; at-risk placement; preliminary study.--
 1358 (1) REPORT TO THE COURT.--The adoption entity must report
 1359 any intended placement of a minor for adoption with any person
 1360 who is not a relative or a stepparent if the adoption entity ~~has~~
 1361 ~~knowledge of, or~~ participates in the, ~~such~~ intended placement.
 1362 The report must be made to the court before the minor is placed
 1363 in the home or within 2 business days ~~48 hours~~ thereafter.
 1364 Failure to file the report of intended placement within 2
 1365 business days does not constitute grounds to deny the petition
 1366 for termination of parental rights or adoption if the report is
 1367 subsequently filed and no party is prejudiced by the failure to
 1368 file the report in a timely manner.
 1369 (2) AT-RISK PLACEMENT.--If the minor is placed in the
 1370 prospective adoptive home before the parental rights of the
 1371 minor's parents are terminated under s. 63.089, the placement is
 1372 an at-risk placement. If the placement is an at-risk placement,
 1373 the prospective adoptive parents must acknowledge in writing
 1374 before the minor may be placed in the prospective adoptive home
 1375 that the placement is at risk. The prospective adoptive parents
 1376 shall be advised by the adoption entity, in writing, that the
 1377 minor is subject to removal from the prospective adoptive home
 1378 by the adoption entity or by court order at any time before
 1379 ~~prior to~~ the finalization of the adoption.
 1380 (3) PRELIMINARY HOME STUDY.--Before placing the minor in
 1381 the intended adoptive home, a preliminary home study must be
 1382 performed by a licensed child-placing agency, ~~a child-caring~~
 1383 ~~agency registered under s. 409.176,~~ a licensed psychologist,

1384 clinical social worker, marriage and family therapist, or mental
 1385 health counselor qualified and licensed to perform a home study
 1386 in the state or country where the adoptive parent resides
 1387 ~~professional, or agency described in s. 61.20(2)~~, unless the
 1388 adoptee is an adult or the petitioner is a stepparent or a
 1389 relative. If the adoptee is an adult or the petitioner is a
 1390 stepparent or a relative, a preliminary home study may be
 1391 required by the court for good cause shown. The department is
 1392 required to perform the preliminary home study only if there is
 1393 no licensed child-placing agency, ~~child-caring agency registered~~
 1394 ~~under s. 409.176~~, licensed professional, or agency described in
 1395 s. 61.20(2), in the county where the prospective adoptive
 1396 parents reside. The preliminary home study must be made to
 1397 determine the suitability of the intended adoptive parents and
 1398 may be completed before ~~prior to~~ identification of a prospective
 1399 adoptive minor. A favorable preliminary home study is valid for
 1400 1 year after the date of its completion. Upon its completion, a
 1401 copy of the home study must be provided to the intended adoptive
 1402 parents who were the subject of the home study. A minor may not
 1403 be placed in an intended adoptive home before a favorable
 1404 preliminary home study is completed unless the adoptive home is
 1405 also a licensed foster home under s. 409.175. The preliminary
 1406 home study must include, at a minimum:

- 1407 (a) An interview with the intended adoptive parents;
- 1408 (b) Records checks of the department's central abuse
- 1409 registry and criminal records correspondence checks under
- 1410 ~~pursuant to~~ s. 435.045 through the Department of Law Enforcement
- 1411 on the intended adoptive parents;

HB 1299 CS

2005
CS

1412 (c) An assessment of the physical environment of the home;

1413 (d) A determination of the financial security of the
1414 intended adoptive parents;

1415 (e) Documentation of counseling and education of the
1416 intended adoptive parents on adoptive parenting;

1417 (f) Documentation that information on adoption and the
1418 adoption process has been provided to the intended adoptive
1419 parents;

1420 (g) Documentation that information on support services
1421 available in the community has been provided to the intended
1422 adoptive parents; and

1423 (h) A copy of each prospective adoptive parent's signed
1424 acknowledgment of receipt of disclosure required by s. 63.085.

1425
1426 If the preliminary home study is favorable, a minor may be
1427 placed in the home pending entry of the judgment of adoption. A
1428 minor may not be placed in the home if the preliminary home
1429 study is unfavorable. If the preliminary home study is
1430 unfavorable, the adoption entity may, within 20 days after
1431 receipt of a copy of the written recommendation, petition the
1432 court to determine the suitability of the intended adoptive
1433 home. A determination as to suitability under this subsection
1434 does not act as a presumption of suitability at the final
1435 hearing. In determining the suitability of the intended adoptive
1436 home, the court must consider the totality of the circumstances
1437 in the home. No minor may be placed in a home in which there
1438 resides any person determined by the court to be a sexual

HB 1299 CS

2005
CS

1439 predator as defined in s. 775.21 or to have been convicted of an
1440 offense listed in s. 63.089(4)(b)2.

1441 Section 16. Subsections (1), (2), (3), and (6) of section
1442 63.102, Florida Statutes, are amended to read:

1443 63.102 Filing of petition for adoption or declaratory
1444 statement; venue; proceeding for approval of fees and costs.--

1445 (1) PETITION FOR ADOPTION.--A petition for adoption may
1446 not be filed until after the entry of the judgment or decree
1447 terminating parental rights ~~pending adoption under this chapter,~~
1448 unless the adoptee is an adult or, the petitioner is a
1449 stepparent or a relative, ~~or the minor has been the subject of a~~
1450 ~~judgment terminating parental rights under chapter 39.~~ After a
1451 judgment terminating parental rights has been entered, a
1452 proceeding for adoption may be commenced by filing a petition
1453 entitled, "In the Matter of the Adoption of ____" in the
1454 circuit court. The person to be adopted shall be designated in
1455 the caption in the name by which he or she is to be known if the
1456 petition is granted. At the request of a party, the ~~Any~~ name by
1457 which the minor was previously known may not be disclosed in the
1458 petition, the notice of hearing according to s. 63.122(3), or
1459 ~~the judgment of adoption, or court docket according to s.~~
1460 63.162(3).

1461 (2) VENUE.--A petition for adoption or for a declaratory
1462 statement as to the adoption contract may ~~shall~~ be filed in the
1463 county where the petition for termination of parental rights was
1464 granted, in ~~unless the court, in accordance with s. 47.122,~~
1465 ~~changes the venue to~~ the county where the petitioner or
1466 petitioners or the minor resides, or where the adoption entity

HB 1299 CS

2005
CS

1467 ~~with which the minor has been placed~~ is located. The circuit
 1468 court in this state may ~~must~~ retain jurisdiction over the matter
 1469 until a final judgment is entered on the adoption. The Uniform
 1470 Child Custody Jurisdiction and Enforcement Act does not apply
 1471 until a final judgment is entered on the adoption.

1472 (3) FILING OF ADOPTION PETITION REQUIRED.--Except in cases
 1473 in which the minor child was placed by the department, unless
 1474 leave of court is granted for good cause shown, a petition for
 1475 adoption shall be filed not later than 60 days after entry of
 1476 the final judgment terminating parental rights.

1477 (6) STEPCCHILD, RELATIVE, AND ADULT ADOPTIONS.--Petitions
 1478 for the adoption of a stepchild, a relative, or an adult may
 1479 ~~shall~~ not require the filing of a separate judgment or separate
 1480 proceeding terminating parental rights pending adoption. The
 1481 final judgment of adoption has ~~shall have~~ the effect of
 1482 terminating parental rights simultaneously with the granting of
 1483 the decree of adoption.

1484 Section 17. Subsection (2) of section 63.112, Florida
 1485 Statutes, is amended to read:

1486 63.112 Petition for adoption; description; report or
 1487 recommendation, exceptions; mailing.--

1488 (2) The following documents are required to be filed with
 1489 the clerk of the court at the time the petition is filed:

1490 (a) A certified copy of the court judgment terminating
 1491 parental rights ~~under chapter 39 or under this chapter~~ or, if
 1492 the adoptee is an adult or a minor relative or stepchild of the
 1493 petitioner, the required consent, unless the ~~such~~ consent is
 1494 excused by the court.

HB 1299 CS

2005
CS

1495 (b) The favorable preliminary home study of the
 1496 department, licensed child-placing agency, or professional under
 1497 ~~pursuant to~~ s. 63.092, as to the suitability of the home in
 1498 which the minor has been placed, unless the petitioner is a
 1499 stepparent or a relative.

1500 (c) A copy of any declaratory statement previously entered
 1501 by the court under ~~pursuant to~~ s. 63.102.

1502 (d) Documentation that an interview was held with the
 1503 minor, if older than 12 years of age, unless the court, in the
 1504 best interest of the minor, dispenses with the minor's consent
 1505 under s. 63.062(1)(c).

1506 Section 18. Subsection (3) of section 63.122, Florida
 1507 Statutes, is amended to read:

1508 63.122 Notice of hearing on petition.--

1509 (3) Upon a showing by the petitioner that the privacy,
 1510 safety, or ~~and~~ welfare of the petitioner, parent, or minor may
 1511 be endangered, the court may order the names, addresses, or
 1512 other identifying information of the petitioner, parent, or
 1513 minor, or all both, to be deleted from the notice of hearing and
 1514 from the copy of the petition attached thereto, provided the
 1515 substantive rights of any person will not thereby be affected.

1516 Section 19. Subsections (1) and (4) of section 63.125,
 1517 Florida Statutes, are amended to read:

1518 63.125 Final home investigation.--

1519 (1) The final home investigation must be conducted before
 1520 the adoption becomes final. The investigation may be conducted
 1521 by a licensed child-placing agency or a licensed professional
 1522 qualified to conduct home studies in the same manner as provided

HB 1299 CS

2005
CS

1523 | in s. 63.092 to ascertain whether the adoptive home is a
 1524 | suitable home for the minor and whether the proposed adoption is
 1525 | in the best interest of the minor. Unless directed by the court,
 1526 | an investigation and recommendation are not required if the
 1527 | petitioner is a stepparent or if the minor is related to one of
 1528 | the adoptive parents within the third degree of consanguinity.
 1529 | The department is required to perform the home investigation
 1530 | only if there is no licensed child-placing agency or
 1531 | professional pursuant to s. 63.092 in the county in which the
 1532 | prospective adoptive parent resides.

1533 | (4) The department, the licensed child-placing agency, or
 1534 | the professional making the required investigation may request
 1535 | other state agencies, licensed professionals qualified to
 1536 | conduct a home study, or child-placing agencies within or
 1537 | outside this state to make investigations of designated parts of
 1538 | the inquiry and to make a written report to the department, the
 1539 | professional, or other person or agency.

1540 | Section 20. Subsection (4) of section 63.132, Florida
 1541 | Statutes, is amended to read:

1542 | 63.132 Affidavit of expenses and receipts.--

1543 | (4) This section does not apply to an adoption by a
 1544 | stepparent or an adoption of a relative or adult, does not apply
 1545 | to the finalization of an adoption of a minor whose parental
 1546 | rights were terminated under chapter 39, and does not apply to
 1547 | the recognition of an adoption decree of a minor child adopted
 1548 | in a foreign country.

1549 | Section 21. Subsection (1) of section 63.135, Florida
 1550 | Statutes, is amended to read:

HB 1299 CS

2005
CS

1551 63.135 Information under oath to be submitted to the
1552 court.--

1553 (1) The adoption entity or petitioner must file an
1554 affidavit under the Uniform Child Custody Jurisdictional and
1555 Enforcement Act in a termination of parental rights ~~Each party~~
1556 ~~in an adoption proceeding,~~ in the first pleading or in an
1557 affidavit attached to that pleading, ~~shall give information~~
1558 ~~under oath as to the child's present address, the places where~~
1559 ~~the child has lived within the last 5 years, and the names and~~
1560 ~~present addresses of the persons with whom the child has lived~~
1561 ~~during that period. In the pleading or affidavit each party~~
1562 ~~shall further declare under oath whether:~~

1563 ~~(a) The party has participated as a party or witness or in~~
1564 ~~any other capacity in any other litigation concerning the~~
1565 ~~custody of the same child in this or any other state;~~

1566 ~~(b) The party has information of any custody proceeding~~
1567 ~~concerning the child pending in a court of this or any other~~
1568 ~~state; and~~

1569 ~~(c) The party knows of any person not a party to the~~
1570 ~~proceedings who has physical custody of the child or claims to~~
1571 ~~have custody or visitation rights with respect to the child.~~

1572 Section 22. Subsections (3) and (4) of section 63.142,
1573 Florida Statutes, are amended to read:

1574 63.142 Hearing; judgment of adoption.--

1575 (3) DISMISSAL.--

1576 (a) If the petition is dismissed, further proceedings, if
1577 any, regarding the minor must be brought in a separate custody
1578 action under chapter 61, a dependency action under chapter 39,

1579 | or a paternity action under chapter 742 ~~the court shall~~
 1580 | ~~determine the person that is to have custody of the minor.~~

1581 | (b) If the petition is dismissed, the court shall state
 1582 | with specificity the reasons for the dismissal.

1583 | (4) JUDGMENT.--At the conclusion of the hearing, after the
 1584 | court determines that the date for a parent to file an appeal of
 1585 | a valid judgment terminating that parent's parental rights has
 1586 | passed and no appeal, under ~~pursuant to~~ the Florida Rules of
 1587 | Appellate Procedure, is pending and that the adoption is in the
 1588 | best interest of the person to be adopted, a judgment of
 1589 | adoption shall be entered. A judgment terminating parental
 1590 | rights pending adoption is voidable and any later judgment of
 1591 | adoption of that minor is voidable if, upon a parent's motion
 1592 | for relief from judgment, the court finds that the adoption
 1593 | fails to meet the requirements of this chapter. The motion must
 1594 | be filed within a reasonable time, but not later than 1 year
 1595 | after the date the judgment terminating parental rights was
 1596 | entered.

1597 | Section 23. Section 63.152, Florida Statutes, is amended
 1598 | to read:

1599 | 63.152 Application for new birth record.--Within 30 days
 1600 | after entry of a judgment of adoption, the clerk of the court
 1601 | shall transmit a certified statement of the entry to the state
 1602 | registrar of vital statistics in the state where the adoptee was
 1603 | born on a form provided by the Florida registrar. A new birth
 1604 | record containing the necessary information supplied by the
 1605 | certificate shall be issued by the registrar on application of
 1606 | the adopting parents or the adopted person.

HB 1299 CS

2005
CS

1607 Section 24. Subsections (1), (3), (4), and (7) of section
1608 63.162, Florida Statutes, are amended, and subsection (8) is
1609 added to that section, to read:

1610 63.162 Hearings and records in adoption proceedings;
1611 confidential nature.--

1612 (1) All hearings held in proceedings under this chapter
1613 ~~act~~ shall be held in closed court without admittance of any
1614 person other than essential officers of the court, the parties,
1615 witnesses, counsel, persons who have not consented to the
1616 adoption and are required to consent, and representatives of the
1617 agencies who are present to perform their official duties.

1618 (3) The court files, records, and papers in the adoption
1619 of a minor shall be indexed only in the name of the petitioner,
1620 and the name of the petitioner and the minor ~~may shall~~ not be
1621 noted on any docket, index, or other record outside the court
1622 file, except that closed agency files may be cross-referenced in
1623 the original and adoptive names of the minor.

1624 (4) A person may not disclose from the records the name
1625 and identity of a birth parent, an adoptive parent, or an
1626 adoptee unless:

1627 (a) The birth parent authorizes in writing the release of
1628 his or her name and files the release with the adoption entity,
1629 an adoption reunion registry, the department, or the court;

1630 (b) The adoptee, if 18 or more years of age, authorizes in
1631 writing the release of his or her name; or, if the adoptee is
1632 less than 18 years of age, written consent to disclose the
1633 adoptee's name is obtained from an adoptive parent;

HB 1299 CS

2005
CS

1634 (c) The adoptive parent authorizes in writing the release
1635 of his or her name; or

1636 (d) Upon order of the court for good cause shown. In
1637 determining whether good cause exists, the court shall give
1638 primary consideration to the best interests of the adoptee, but
1639 must also give due consideration to the interests of the
1640 adoptive and birth parents. Factors to be considered in
1641 determining whether good cause exists include, but are not
1642 limited to:

- 1643 1. The reason the information is sought;
- 1644 2. The existence of means available to obtain the desired
1645 information without disclosing the identity of the birth
1646 parents, such as by having the court, a person appointed by the
1647 court, the department, or the licensed child-placing agency
1648 contact the birth parents and request specific information;
- 1649 3. The desires, to the extent known, of the adoptee, the
1650 adoptive parents, and the birth parents;
- 1651 4. The age, maturity, judgment, and expressed needs of the
1652 adoptee; and
- 1653 5. The recommendation of the department, licensed child-
1654 placing agency, or professional which prepared the preliminary
1655 study and home investigation, or the department if no such study
1656 was prepared, concerning the advisability of disclosure.

1657 (7) The court may, upon petition of an adult adoptee, or
1658 the adoptive parents if the adoptee is less than 18 years of
1659 age, for good cause shown, appoint an intermediary or a licensed
1660 child-placing agency to contact a birth parent to ~~who has not~~
1661 ~~registered with the adoption registry pursuant to s. 63.165 and~~

HB 1299 CS

2005
CS

1662 | advise him or her ~~them~~ of the adoptee's request to open the file
 1663 | or the adoption registry, and offer the birth parent the
 1664 | opportunity to waive confidentiality and consent to the opening
 1665 | of his or her records ~~availability of same.~~

1666 | (8) As a result of any proceeding under s. 382.015, this
 1667 | section, or any other proceeding to unseal an original birth
 1668 | certificate, the Department of Health may release an original
 1669 | sealed birth certificate only to the department. The department
 1670 | must make a written request for the birth certificate from the
 1671 | Department of Health within 10 days after the department's
 1672 | receipt of an order or other documentation authorizing unsealing
 1673 | of the original birth certificate. Upon receipt of the
 1674 | department's request, the Department of Health shall release the
 1675 | original sealed birth certificate to the department in a manner
 1676 | that will ensure confidentiality.

1677 | Section 25. Paragraph (c) of subsection (1) of section
 1678 | 63.172, Florida Statutes, is amended to read:

1679 | 63.172 Effect of judgment of adoption.--

1680 | (1) A judgment of adoption, whether entered by a court of
 1681 | this state, another state, or of any other place, has the
 1682 | following effect:

1683 | (c) ~~Except for rights of inheritance,~~ It creates the
 1684 | relationship between the adopted person and the petitioner and
 1685 | all relatives of the petitioner that would have existed if the
 1686 | adopted person were a blood descendant of the petitioner born
 1687 | within wedlock. This relationship shall be created for all
 1688 | purposes, including the rights of inheritance and applicability
 1689 | of statutes, documents, and instruments, whether executed before

HB 1299 CS

2005
CS

1690 or after entry of the adoption judgment, that do not expressly
1691 exclude an adopted person from their operation or effect.

1692 Section 26. Section 63.182, Florida Statutes, is amended
1693 to read:

1694 63.182 Statute of repose.--

1695 (1) Notwithstanding s. 95.031 or s. 95.11 or any other
1696 statute, an action or proceeding of any kind to vacate, set
1697 aside, or otherwise nullify a judgment of adoption or an
1698 underlying judgment terminating parental rights on any ground
1699 may not be filed more than 1 year after entry of the judgment
1700 terminating parental rights.

1701 (2)(a) Except for the specific persons expressly entitled
1702 to be given notice of an adoption in accordance with this
1703 chapter, the interest which gives a person standing to set aside
1704 an adoption must be direct, financial, and immediate, and the
1705 person must show that he or she will gain or lose by the direct
1706 legal operation and effect of the judgment. A showing of an
1707 indirect, inconsequential, or contingent interest is wholly
1708 inadequate, and a person with this indirect interest lacks
1709 standing to set aside a judgment of adoption.

1710 (b) This subsection is remedial and shall apply to all
1711 adoptions, including those in which a judgment of adoption has
1712 already been entered.

1713 Section 27. Section 63.192, Florida Statutes, is amended
1714 to read:

1715 63.192 Recognition of foreign judgment affecting
1716 adoption.--A judgment ~~of court~~ terminating the relationship of
1717 parent and child or establishing the relationship by adoption

1718 | issued under ~~pursuant to~~ due process of law by a court or
 1719 | governmentally authorized body of any other jurisdiction within
 1720 | or without the United States shall be recognized in this state,
 1721 | and the rights and obligations of the parties ~~on matters within~~
 1722 | ~~the jurisdiction of this state~~ shall be determined as though the
 1723 | judgment were issued by a court of this state. When a minor
 1724 | child has been made available for adoption in a foreign state or
 1725 | foreign country and the parental rights of the minor child's
 1726 | parent have been terminated, or the child has been declared to
 1727 | be abandoned or orphaned, no additional termination of parental
 1728 | rights proceeding need occur, and the parties may proceed to a
 1729 | judicial finalization of the adoption according to the
 1730 | procedures set forth in this chapter.

1731 | Section 28. Section 63.207, Florida Statutes, is amended
 1732 | to read:

1733 | 63.207 Out-of-state placement.--

1734 | (1) Unless the parent placing a minor for adoption files
 1735 | an affidavit that the parent chooses to place the minor outside
 1736 | the state, giving the reason for that placement, or the minor is
 1737 | to be placed with a relative or with a stepparent, or the minor
 1738 | is a special needs child, as defined in s. 409.166, or for other
 1739 | good cause shown, an adoption entity may not:

1740 | (a) Take or send a minor out of the state for the purpose
 1741 | of placement for adoption; or

1742 | (b) Place or attempt to place a minor for the purpose of
 1743 | adoption with a family who primarily lives and works outside
 1744 | Florida in another state. If an adoption entity is acting under
 1745 | this subsection, the adoption entity must file a petition for

HB 1299 CS

2005
CS

1746 declaratory statement under ~~pursuant to~~ s. 63.102 for ~~prior~~
 1747 approval of fees and costs. The court shall review the costs
 1748 under ~~pursuant to~~ s. 63.097. The petition for declaratory
 1749 statement may ~~must~~ be consolidated with ~~converted to~~ a petition
 1750 for an adoption upon placement of the minor in the home. When a
 1751 minor is placed for adoption with prospective adoptive parents
 1752 who primarily live and work outside this state, the circuit
 1753 court in this state may retain jurisdiction over the matter
 1754 until the adoption becomes final. The prospective adoptive
 1755 parents may finalize the adoption in this state or their home
 1756 state.

1757 (2) An adoption entity may not counsel a birth mother to
 1758 leave the state for the purpose of giving birth to a child
 1759 outside the state in order to secure a fee in excess of that
 1760 permitted under s. 63.097 when it is the intention that the
 1761 child is to be placed for adoption outside the state.

1762 (3) When applicable, the Interstate Compact on the
 1763 Placement of Children authorized in s. 409.401 shall be used in
 1764 placing children outside the state for adoption.

1765 Section 29. Paragraphs (b), (c), (f), and (g) of
 1766 subsection (1) and subsections (2) and (7) of section 63.212,
 1767 Florida Statutes, are amended to read:

1768 63.212 Prohibited acts; penalties for violation.--

1769 (1) It is unlawful for any person:

1770 (b) Except an adoption entity, to place or attempt to
 1771 place within the state a minor for adoption unless the minor is
 1772 placed with a relative or with a stepparent. This prohibition,
 1773 however, does not apply to a person who is placing or attempting

HB 1299 CS

2005
CS

1774 to place a minor for the purpose of adoption with the adoption
1775 entity.

1776 (c) To sell or surrender, or to arrange for the sale or
1777 surrender of, a minor to another person for money or anything of
1778 value or to receive a ~~such~~ minor child for a ~~such~~ payment or
1779 thing of value. If a minor is being adopted by a relative or by
1780 a stepparent, or is being adopted through an adoption entity,
1781 this paragraph does not prohibit the person who is contemplating
1782 adopting the child from paying, under ss. 63.097 and 63.132, the
1783 actual prenatal care and living expenses of the mother of the
1784 child to be adopted, or from paying, under ss. 63.097 and
1785 63.132, the actual living and medical expenses of the ~~such~~
1786 mother under these sections ~~for a reasonable time, not to exceed~~
1787 ~~6 weeks, if medical needs require such support, after the birth~~
1788 ~~of the minor.~~

1789 (f) Except an adoption agency or intermediary ~~entity~~, to
1790 charge or accept any fee or compensation of any nature from
1791 anyone for making a referral in connection with an adoption or
1792 for providing adoption services, facilitating, matching, or
1793 placement services.

1794 (g) Except an adoption agency or intermediary ~~entity~~, to
1795 advertise or offer to the public, in any way, by any medium
1796 whatever that a minor is available for adoption or that a minor
1797 is sought for adoption; and, further, it is unlawful for any
1798 person to publish or broadcast any such advertisement without
1799 including a Florida license number of the agency or attorney
1800 placing the advertisement.

HB 1299 CS

2005
CS

1801 (2)(a) It is unlawful for any person under this chapter
1802 to:

- 1803 1. Knowingly provide false information; or
1804 2. Knowingly withhold material information.

1805 (b) It is unlawful for a parent, with the intent to
1806 defraud, to accept benefits related to the same pregnancy from
1807 more than one adoption entity without disclosing that fact to
1808 each entity.

1809 ~~(c) It is unlawful for any person who knows that the~~
1810 ~~parent whose rights are to be terminated intends to object to~~
1811 ~~said termination to intentionally file the petition for~~
1812 ~~termination of parental rights in a county inconsistent with the~~
1813 ~~required venue under such circumstances.~~

1814
1815 Any person who willfully violates any provision of this
1816 subsection commits a misdemeanor of the second degree,
1817 punishable as provided in s. 775.082 or s. 775.083. In addition,
1818 the ~~such~~ person is liable for damages caused by the ~~such~~ acts or
1819 omissions, including reasonable attorney's fees and costs.
1820 Damages may be awarded through restitution in any related
1821 criminal prosecution or by filing a separate civil action.

1822 (7) It is unlawful for any adoptive parent or adoption
1823 entity to obtain a preliminary home study or final home
1824 investigation and fail to disclose the existence of the study or
1825 investigation to the court when required by law to do so.

1826 Section 30. Subsections (4) and (5) and paragraph (c) of
1827 subsection (6) of section 63.213, Florida Statutes, are amended
1828 to read:

1829 | 63.213 Preplanned adoption agreement.--

1830 | (4) An attorney who represents an intended father and
1831 | intended mother or any other attorney with whom that attorney is
1832 | associated shall not represent simultaneously a female who is or
1833 | proposes to be a volunteer mother in the same ~~any matter~~
1834 | ~~relating to a preplanned adoption agreement or preplanned~~
1835 | adoption arrangement.

1836 | (5) Payment to agents, finders, and intermediaries,
1837 | including attorneys and physicians, as a finder's fee for
1838 | finding ~~volunteer mothers~~ or matching a volunteer mother and
1839 | intended father and intended mother is prohibited and subject to
1840 | the penalties and sanctions under 63.212 and 63.219. Doctors,
1841 | psychologists, attorneys, and other professionals may receive
1842 | reasonable compensation for their professional services, such as
1843 | providing medical services and procedures, legal advice in
1844 | structuring and negotiating a preplanned adoption agreement, or
1845 | counseling.

1846 | (6) As used in this section, the term:

1847 | (c) "Fertility technique" means ~~artificial embryonation,~~
1848 | artificial insemination, whether in vivo or in vitro, ~~egg~~
1849 | ~~donation, or embryo adoption.~~

1850 | Section 31. Section 63.219, Florida Statutes, is amended
1851 | to read:

1852 | 63.219 Sanctions.--Upon a finding by the court that an
1853 | adoption entity or any person has willfully violated any
1854 | substantive provision of this chapter relative to the rights of
1855 | the parties to the adoption and legality of the adoption
1856 | process, the court is authorized to prohibit the adoption entity

HB 1299 CS

2005
CS

1857 or any person from placing a minor for adoption and enjoin them
 1858 from engaging in further placement activities in the future in
 1859 this state.

1860 Section 32. Section 63.236, Florida Statutes, is created
 1861 to read:

1862 63.236 Petitions filed before effective date; governing
 1863 law.--Any petition for termination of parental rights filed
 1864 before the July 1, 2005, shall be governed by the law in effect
 1865 at the time the petition was filed.

1866 Section 33. Paragraph (a) of subsection (2), paragraph (a)
 1867 of subsection (3), and subsection (5) of section 409.166,
 1868 Florida Statutes, are amended to read:

1869 409.166 Special needs children; subsidized adoption
 1870 program.--

1871 (2) DEFINITIONS.--As used in this section, the term:

1872 (a) "Special needs child" means a child whose permanent
 1873 custody has been awarded to the department or to a licensed
 1874 child-placing agency or placed through an adoption intermediary
 1875 and:

1876 1. Who has established significant emotional ties with his
 1877 or her foster parents; or

1878 2. Is not likely to be adopted because he or she is:

1879 a. Eight years of age or older;

1880 b. Mentally retarded;

1881 c. Physically or emotionally handicapped;

1882 d. Of black ~~or racially mixed~~ parentage; or

HB 1299 CS

2005
CS

1883 e. A member of a sibling group of any age, provided two or
1884 more members of a sibling group remain together for purposes of
1885 adoption.

1886 (3) ADMINISTRATION OF PROGRAM.--

1887 (a) The department shall establish and administer an
1888 adoption program for special needs children to be carried out by
1889 the department or by contract with a licensed child-placing
1890 agency or adoption intermediary. The program shall attempt to
1891 increase the number of persons seeking to adopt special needs
1892 children and the number of adoption placements and shall extend
1893 subsidies and services, when needed, to the adopting parents of
1894 a special needs child.

1895 (5) WAIVER OF ADOPTION FEES.--The adoption fees shall be
1896 waived for all adoptive parents who participate in the program
1897 who adopt children in the custody of the department. Fees may be
1898 waived for families who adopt children in the custody of
1899 licensed child-placing agencies or who adopt children through
1900 intermediary-placed ~~independent~~ adoptions, and who receive or
1901 may be eligible for subsidies through the department.
1902 Retroactive reimbursement of fees may not be required for
1903 families who adopt children in the custody of licensed child-
1904 placing agencies.

1905 Section 34. Paragraph (b) of subsection (5), paragraph (b)
1906 of subsection (10), paragraph (b) of subsection (11), and
1907 subsection (14) of section 409.176, Florida Statutes, are
1908 amended to read:

1909 409.176 Registration of residential child-caring agencies
1910 and family foster homes.--

HB 1299 CS

2005
CS

1911 (5) The licensing provisions of s. 409.175 do not apply to
1912 a facility operated by an organization that:

1913 (b) Is certified by a Florida statewide child care
1914 organization which was in existence on January 1, 1984, and
1915 which publishes, and requires compliance with, its standards and
1916 files copies thereof with the department. These ~~Such~~ standards
1917 shall be in substantial compliance with published minimum
1918 standards that similar licensed child-caring agencies, licensed
1919 child-placing agencies, or family foster homes are required to
1920 meet, as determined by the department, with the exception of
1921 those standards of a curricular or religious nature and those
1922 relating to staffing or financial stability of licensed child-
1923 caring agencies or family foster homes. Once the department has
1924 determined that the standards for child-caring agencies, child-
1925 placing agencies, or family foster homes are in substantial
1926 compliance with minimum standards that similar facilities are
1927 required to meet, the standards do not have to be resubmitted to
1928 the department unless a change occurs in the standards. Any
1929 changes in the standards shall be provided to the department
1930 within 10 days of their adoption.

1931 (10)

1932 (b) The qualified association shall notify the department
1933 when the qualified association finds, within 30 days after
1934 written notification by registered mail of the requirement for
1935 registration, that a person or facility continues to care for
1936 children without a certificate of registration. The department
1937 shall notify the appropriate state attorney of the violation of
1938 law and, if necessary, shall institute a civil suit to enjoin

HB 1299 CS

2005
CS

1939 | the person or facility from continuing the care or placement of
1940 | children.

1941 | (11)

1942 | (b) If the department determines that a person or facility
1943 | is caring for or placing a child without a valid certificate of
1944 | registration issued by the qualified association or has made a
1945 | willful or intentional misstatement on any registration
1946 | application or other document required to be filed in connection
1947 | with an application for a certificate of registration, the
1948 | qualified association, as an alternative to or in conjunction
1949 | with an administrative action against the ~~such~~ person or
1950 | facility, shall make a reasonable attempt to discuss each
1951 | violation with, and recommend corrective action to, the person
1952 | or the administrator of the facility, prior to written
1953 | notification thereof.

1954 | (14) Registration under this section, including the issue
1955 | of substantial compliance with published minimum standards that
1956 | similar licensed child-caring facilities, licensed child-placing
1957 | agencies, or family foster homes are required to meet, as
1958 | provided in paragraph (5)(b), is subject to ~~the provisions of~~
1959 | chapter 120.

1960 | Section 35. Section 742.14, Florida Statutes, is amended
1961 | to read:

1962 | 742.14 Donation of eggs, sperm, ~~or~~ preembryos, or
1963 | embryos.--The donor of any egg, sperm, ~~or~~ preembryo, or embryo,
1964 | other than the commissioning couple or a father who has executed
1965 | a preplanned adoption agreement under s. 63.212, shall
1966 | relinquish all maternal or paternal rights and obligations with

HB 1299 CS

2005
CS

1967 | respect to the donation or the resulting children simultaneously
 1968 | upon the completion of the donation by operation of law. Only
 1969 | reasonable compensation directly related to the donation of
 1970 | eggs, sperm, ~~and~~ preembryos, and embryos shall be permitted.

1971 | Section 36. Subsection (2) of section 742.15, Florida
 1972 | Statutes, is amended to read:

1973 | 742.15 Gestational surrogacy contract.--

1974 | (2) The commissioning couple shall enter into a contract
 1975 | with a gestational surrogate only when, within reasonable
 1976 | medical certainty as determined by a physician licensed under
 1977 | chapter 458 or chapter 459 or a physician licensed under an
 1978 | equivalent law in the physician's state of practice:

1979 | (a) The commissioning mother cannot physically gestate a
 1980 | pregnancy to term;

1981 | (b) The gestation will cause a risk to the physical health
 1982 | of the commissioning mother; or

1983 | (c) The gestation will cause a risk to the health of the
 1984 | fetus.

1985 | Section 37. Subsections (6) and (7) of section 742.16,
 1986 | Florida Statutes, are amended to read:

1987 | 742.16 Expedited affirmation of parental status for
 1988 | gestational surrogacy.--

1989 | (6) The commissioning couple or their legal representative
 1990 | shall appear at the hearing on the petition. At the conclusion
 1991 | of the hearing, after the court has determined that a binding
 1992 | and enforceable gestational surrogacy contract has been executed
 1993 | pursuant to s. 742.15 and that there is no evidence that the
 1994 | gestational surrogate is the genetic mother ~~at least one member~~

HB 1299 CS

2005
CS

1995 ~~of the commissioning couple is the genetic parent~~ of the child,
1996 the court shall enter an order stating that the commissioning
1997 couple are the legal parents of the child.

1998 (7) When there is no evidence that the gestational
1999 surrogate is the genetic mother ~~at least one member of the~~
2000 ~~commissioning couple is the genetic parent~~ of the child, the
2001 commissioning couple shall be presumed to be the natural parents
2002 of the child.

2003 Section 38. Section 742.18, Florida Statutes, is created
2004 to read:

2005 742.18 Prohibited fees and acts.--

2006 (1) A person or entity, except a licensed physician,
2007 fertility clinic, or attorney, may not:

2008 (a) Receive compensation in advising or assisting in donor
2009 or gestational carrier arrangements.

2010 (b) Advertise or offer to the public, in any way, by any
2011 medium whatsoever, that a donor, carrier, or intended parent is
2012 sought for or available for matching or that the person or
2013 entity provides services in the arrangements.

2014 (c) Publish or broadcast any advertisement except that an
2015 intended parent or parents, carrier, or donor seeks a donor,
2016 intended parent, or carrier for the person's or entity's own
2017 arrangement.

2018 (d) Charge or accept any fee or compensation of any nature
2019 to or from anyone for making a referral in connection with a
2020 donor or carrier arrangement or for facilitating such an
2021 arrangement.

2022 (e) Hold funds in escrow in a donor or gestational carrier
 2023 arrangement.

2024 (f) Assist in the commission of any act in paragraphs (a)-
 2025 (e).

2026 (2) A fee, whether denominated as an agent, agency,
 2027 finder, or facilitator's fee for finding, screening, matching,
 2028 or facilitating a donor or gestational carrier arrangement, may
 2029 not be paid to or received by a person other than a licensed
 2030 physician, a fertility clinic, or an attorney.

2031 (3) A person or entity who violates this section may be
 2032 enjoined by a court from engaging in these practices in this
 2033 state.

2034 (4)(a) A person who willfully violates this section
 2035 commits a misdemeanor of the second degree, punishable as
 2036 provided in s. 775.082 or s. 775.083. Each day of a continuing
 2037 violation constitutes a separate offense.

2038 (b) A person who violates this section is liable for
 2039 damages caused by his or her acts or omissions and for
 2040 reasonable attorney's fees and costs. Damages may be awarded
 2041 through restitution in any related criminal prosecution or by
 2042 filing a separate civil action.

2043 Section 39. This act shall take effect July 1, 2005.