

1 A bill to be entitled

2 An act relating to adoption; amending s. 63.022, F.S.;
3 providing legislative intent; amending s. 63.032, F.S.;
4 redefining terms and defining the term "primarily lives
5 and works in Florida"; amending s. 63.039, F.S.; requiring
6 an adoption entity to diligently search for a person whose
7 consent is required for the adoption; amending s. 63.0423,
8 F.S.; providing that a judgment of adoption is voidable
9 under certain circumstances if a court finds that a person
10 whose consent is required gave false information; amending
11 s. 63.0425, F.S.; providing a grandparent's right to
12 notice; amending s. 63.052, F.S.; providing that a court
13 in this state retains jurisdiction until the adoption is
14 finalized in this state or in another state; amending s.
15 63.053, F.S.; providing that if an unmarried biological
16 father fails to take the actions that are available to him
17 to establish a relationship with his child, his parental
18 interest may be lost entirely; amending s. 63.054, F.S.;
19 requiring adoption entity to provide certain information
20 to the Department of Health; providing that if a putative
21 father fails to report a change of address to the Florida
22 Putative Father Registry, the failure is not a valid
23 defense based upon lack of notice and the adoption entity
24 or adoption petitioner is not obligated to search further
25 for the registrant; providing that if a father who is
26 required to consent to an adoption does not know the
27 county in which the birth mother resides, gave birth, or
28 intends to give birth, he may initiate an action in any

29 | county in the state; amending s. 63.062, F.S.; providing
30 | that an adoption agency may file a notice of an intended
31 | adoption plan at any time before the birth of the child or
32 | before placing the child in the adoptive home; requiring
33 | an adoption entity to make a good faith effort to locate
34 | the putative father; providing when an adoption entity has
35 | no further obligation to search for the putative father;
36 | providing for the proper venue to file a petition to
37 | terminate parental rights; amending s. 63.082, F.S.;
38 | providing that notice and consent provisions do not apply
39 | in cases where the child was conceived as a result of a
40 | violation of certain criminal statutes; limiting
41 | revocation of a consent to adopt to 3 days if the child is
42 | older than 6 months of age; authorizing a court to
43 | transfer a child to the prospective adoptive parents under
44 | certain circumstances; requiring the adoption entity to
45 | file a petition for adoption or termination of parental
46 | rights after the transfer of the child; amending s.
47 | 63.085, F.S.; revising provision relating to who may sign
48 | a valid consent for adoption; amending s. 63.087, F.S.;
49 | providing procedures to terminate parental rights pending
50 | an adoption; providing the proper venue in which to file a
51 | petition to terminate parental rights; requiring a person
52 | to answer the petition and to appear at the hearing for
53 | termination of parental rights; amending s. 63.088, F.S.;
54 | requiring the court to conduct an inquiry concerning the
55 | father of the child who is to be adopted; revising
56 | requirements for notice concerning the termination of

57 | parental rights; requiring persons contacted by a
58 | petitioner or adoption entity to release certain
59 | information; amending s. 63.089, F.S.; revising provisions
60 | relating to service of notice and petition regarding
61 | termination of parental rights and consent to adoption;
62 | requiring that certain scientific testing to determine
63 | paternity comply with state law; amending s. 63.092, F.S.;
64 | providing that if an adoption entity fails to file the
65 | report of its intended placement within the specified time
66 | period the failure does not constitute grounds to deny the
67 | petition for termination of parental rights or adoption
68 | under certain circumstances; identifying additional
69 | individuals who may perform a home study; providing an
70 | exception if the person to be adopted is an adult;
71 | amending s. 63.102, F.S.; revising procedures for the
72 | filing of a petition for adoption; providing the proper
73 | venue where the petition may be filed; amending s. 63.112,
74 | F.S.; revising language requiring that a certified copy of
75 | a judgment terminating parental rights be filed at the
76 | same time the petition is filed; amending s. 63.122, F.S.;
77 | providing that certain information may be removed from the
78 | petition; amending s. 63.125, F.S.; providing certain
79 | licensed professionals may conduct the final home
80 | investigation; amending s. 63.132, F.S.; providing
81 | exceptions to the requirement that the adoptive parent and
82 | the adoption entity file an affidavit itemizing all
83 | expenses and receipts; amending s. 63.135, F.S.; requiring
84 | the adoption entity or petitioner to file an affidavit

85 | under the Uniform Child Custody Jurisdictional and
86 | Enforcement Act; revising information required to be
87 | submitted under oath to the court; amending s. 63.142,
88 | F.S.; requiring that if an adoption petition is dismissed,
89 | any further proceedings regarding the minor be brought in
90 | a separate custody action under ch. 61, F.S., a dependency
91 | action under ch. 39, F.S., or a paternity action under ch.
92 | 742, F.S.; amending s. 63.152, F.S.; requiring the clerk
93 | of court to transmit a certified statement of the adoption
94 | to the state where the child was born; amending s. 63.162,
95 | F.S.; authorizing the birth parent to release his or her
96 | name under certain circumstances; authorizes a court to
97 | permit certain entities to contact a birth parent to
98 | advise him or her of the adoptee's request to open the
99 | file or the adoption registry and provide the opportunity
100 | to waive confidentiality and consent to the opening of
101 | records; providing requirements for release of an original
102 | sealed birth certificate; amending s. 63.172, F.S.;
103 | granting rights of inheritance when a judgment of adoption
104 | has been entered; amending s. 63.182, F.S.; providing that
105 | the interest that gives a person standing to set aside an
106 | adoption must be direct, financial, and immediate;
107 | providing an exception; providing that a showing of an
108 | indirect, inconsequential, or contingent interest is
109 | wholly inadequate; providing construction and
110 | applicability; amending s. 63.192, F.S.; requiring the
111 | courts of this state to recognize decrees of termination
112 | of parental rights and adoptions from other states and

113 | countries; amending s. 63.207, F.S.; revising provisions
114 | relating to out-of-state placement of minors; amending s.
115 | 63.212, F.S.; revising acts that are unlawful pertaining
116 | to adoptions; providing penalties; amending s. 63.213,
117 | F.S.; prohibiting an attorney from representing the
118 | volunteer mother and the intended mother in a preplanned
119 | adoption arrangement; providing penalties and sanctions
120 | for payment of finder's fees in certain preplanned
121 | adoption agreements; revising the definition of "fertility
122 | technique"; amending s. 63.219, F.S.; providing sanctions
123 | for persons who violate ch. 63, F.S.; creating s. 63.236,
124 | F.S.; providing that any petition for termination of
125 | parental rights filed before the effective date of the act
126 | is governed by the law in effect at the time the petition
127 | was filed; amending s. 409.166, F.S.; redefining the term
128 | "special needs child" to remove children of racially mixed
129 | parentage; providing for participation by adoption
130 | intermediaries in the adoption program for special needs
131 | children administered by the Department of Children and
132 | Family Services; amending s. 409.176, F.S.; providing that
133 | licensing provisions do not apply to certain licensed
134 | child-placing agencies; amending s. 742.14, F.S.;
135 | providing that the donor of an embryo relinquishes all
136 | parental rights and obligations to the embryo or the
137 | resulting children at the time of the donation; amending
138 | s. 742.15, F.S.; authorizing a physician in a state
139 | outside this state to advise a commissioning couple
140 | concerning a gestational surrogate; amending s. 742.16,

141 F.S.; revising requirements for affirmation of parental
 142 status for gestational surrogacy; creating s. 742.18, F.S;
 143 prohibiting a person or entity, except a licensed
 144 physician, fertility clinic, or attorney, from doing
 145 certain specified acts; prohibiting a person other than a
 146 licensed physician, fertility clinic, or attorney from
 147 accepting a fee for finding, screening, matching, or
 148 facilitating a donor or gestational carrier arrangement;
 149 providing that if a person willfully violates the section
 150 he or she commits a misdemeanor of the second degree;
 151 providing criminal penalties; providing that if a person
 152 violates the section he or she is liable for damages
 153 caused by his or her acts or omissions and for reasonable
 154 attorney's fees and costs; providing an effective date.

155
 156 Be It Enacted by the Legislature of the State of Florida:

157
 158 Section 1. Paragraph (e) of subsection (4) and subsection
 159 (5) of section 63.022, Florida Statutes, are amended to read:

160 63.022 Legislative intent.--

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

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

167 (5) It is the intent of the Legislature to provide for
 168 cooperation between private adoption entities and the Department

169 of Children and Family Services in matters relating to permanent
 170 placement options for children in the care of the department
 171 whose parent or legal custodian wishes ~~birth parents wish~~ to
 172 participate in a private adoption plan with a qualified family.

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

175 63.032 Definitions.--As used in this chapter, the term:

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

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

195 (3) "Adoption entity" means the department, an agency, a
 196 child-caring agency registered under s. 409.176, an

197 | intermediary, an attorney licensed in another state who is
 198 | placing a child from another state into this state, or a child-
 199 | placing agency licensed in another state which is placing a
 200 | child from another state into this state and is qualified by the
 201 | department to place children in the State of Florida.

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

206 | (5)~~(4)~~ "Adult" means a person who is not a minor.

207 | (6)~~(5)~~ "Agency" means any child-placing agency licensed by
 208 | the department under ~~pursuant to~~ s. 63.202 to place minors for
 209 | adoption.

210 | (7)~~(6)~~ "Child" means a son or daughter, whether by birth
 211 | or adoption.

212 | (8)~~(7)~~ "Court" means any circuit court of this state and,
 213 | when the context requires, the court of any state that is
 214 | empowered to grant petitions for adoption.

215 | (9)~~(8)~~ "Department" means the Department of Children and
 216 | Family Services.

217 | (10)~~(9)~~ "Intermediary" means an attorney who is licensed
 218 | or authorized to practice in this state and who is placing or
 219 | intends to place a child for adoption, including placing
 220 | children born in another state with citizens of this state or
 221 | country or placing children born in this state with citizens of
 222 | another state or country.

223 | (11)~~(10)~~ "Legal custody" means a legal status created by
 224 | court order or letter of guardianship which vests in a custodian

225 of the child or guardian, whether an agency or an individual,
 226 the right to have physical custody of the child and the right
 227 and duty to protect, train, and discipline the child and to
 228 provide him or her with food, shelter, education, and ordinary
 229 medical, dental, psychiatric, and psychological care. The legal
 230 custodian is the person or entity in whom the legal right to
 231 custody is vested ~~has the meaning ascribed in s. 39.01.~~

232 ~~(12)-(11)~~ "Minor" means a person under the age of 18 years.

233 ~~(13)-(12)~~ "Parent" means a woman who gives birth to a child
 234 and a man whose consent to the adoption of the child would be
 235 required under s. 63.062. If a child has been legally adopted,
 236 the term "parent" means the adoptive mother or father of the
 237 child. The terms "parent," "mother," and "father" do not include
 238 an individual whose parental relationship to the child has been
 239 legally terminated ~~has the same meaning ascribed in s. 39.01.~~

240 ~~(14)-(13)~~ "Person" has the same meaning as in s. 1.01
 241 ~~includes a natural person, corporation, government or~~
 242 ~~governmental subdivision or agency, business trust, estate,~~
 243 ~~trust, partnership, or association, and any other legal entity.~~

244 ~~(15)-(14)~~ "Relative" means a person related by blood,
 245 adoption, or marriage to the person being adopted within the
 246 third degree of consanguinity.

247 ~~(16)-(15)~~ "To place" or "placement" means the process of a
 248 parent or legal guardian surrendering a child for adoption and
 249 the prospective adoptive parents receiving and adopting the
 250 child, and includes all actions by any person or adoption entity
 251 participating in the process.

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

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

264 (18)~~(17)~~ "Primarily lives and works outside Florida" means
265 a person who lives and works outside this state at least 6
266 months and 1 day of the year, military personnel who designate a
267 state other than Florida as their place of residence in
268 accordance with the Servicemembers Civil Relief Act, Pub. L. No.
269 108-189 Soldiers' and Sailors' Civil Relief Act of 1940, or
270 citizens employees of the United States Department of State
271 living in a foreign country who designate a state other than
272 Florida as their place of residence and who do not reside in
273 Florida for 6 months and 1 day of the year.

274 (19)~~(18)~~ "Suitability of the intended placement" includes
275 the fitness of the intended placement, with primary
276 consideration being given to the best interest of the child.

277 (20)~~(19)~~ "Unmarried biological father" means the child's
278 biological father who is not married to the child's mother at
279 the time of conception or birth of the child and who has not

280 | been declared by a court of competent jurisdiction to be the
 281 | legal father of the child.

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

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

288 | 63.039 Duty of adoption entity to prospective adoptive
 289 | parents; sanctions.--

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

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

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

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

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

310 63.0423 Procedures with respect to abandoned infants.--

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

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

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

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

349 Section 5. Section 63.0425, Florida Statutes, is amended
 350 to read:

351 63.0425 Grandparent's right to notice ~~adopt~~.--

352 (1) When a child has lived with a grandparent for at least
 353 6 months within the 24-month period immediately preceding the
 354 filing of a petition for termination of parental rights pending
 355 adoption, the adoption entity shall provide notice to that
 356 grandparent of the hearing on the petition for termination of
 357 parental rights pending adoption.

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

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

362 (4) Nothing in this section shall contravene the
363 provisions of s. 63.142(4).

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

366 63.052 Guardians designated; proof of commitment.--

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

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

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

380 63.053 Rights and responsibilities of an unmarried
381 biological father; legislative findings.--

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

390 with the available legal steps to substantiate a parental
 391 interest.

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

394 63.054 Actions required by an unmarried biological father
 395 to establish parental rights; Florida Putative Father
 396 Registry.--

397 (1) In order to preserve the right to notice and consent
 398 to an adoption under this chapter, an unmarried biological
 399 father must, as the "registrant," file a notarized claim of
 400 paternity form with the Florida Putative Father Registry
 401 maintained by the Office of Vital Statistics of the Department
 402 of Health and shall include therein confirmation of his
 403 willingness and intent to support the child for whom paternity
 404 is claimed in accordance with state law. The claim of paternity
 405 may be filed at any time prior to the child's birth, but a claim
 406 of paternity may not be filed after the date a petition is filed
 407 for termination of parental rights. The adoption entity shall
 408 provide the Department of Health with a notification of filing
 409 the petition for termination of parental rights. The Department
 410 of Health shall adopt by rule a form to be completed by the
 411 clerk of the court for notification of filing a petition for
 412 termination of parental rights.

413 (5) The registrant may, at any time prior to the birth of
 414 the child for whom paternity is claimed, execute a notarized
 415 written revocation of the claim of paternity previously filed
 416 with the Florida Putative Father Registry, and upon receipt of
 417 such revocation, the claim of paternity shall be deemed null and

418 void. If a court determines that a registrant is not the father
419 of the minor or has no parental rights, the court shall order
420 the department to remove the registrant's name from the
421 registry.

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

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

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

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

454
 455 The ~~This~~ certificate must be filed with the court in the
 456 proceeding to terminate parental rights or the adoption
 457 proceeding. If a termination of parental rights and an adoption
 458 proceeding are being adjudicated separately ~~simultaneously~~, the
 459 Florida Putative Father Registry need only be searched once.

460 (8) If an unmarried biological father does not know the
 461 county in which the birth mother resides, gave birth, or intends
 462 to give birth, he may initiate an action in any county in the
 463 state, subject to the court's discretion to change venue in
 464 accordance with s. 63.087 ~~subject to the birth mother's right to~~
 465 ~~change venue to the county where she resides.~~

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

468 63.062 Persons required to consent to adoption; affidavit
 469 of nonpaternity; waiver of venue.--

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

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

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

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

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

499 3. An unmarried biological father who openly lived with
 500 the child for at least 6 months within the 1-year period
 501 following the birth of the child and immediately preceding

502 placement of the child with adoptive parents and who openly held
503 himself out to be the father of the child during that period
504 shall be deemed to have developed a substantial relationship
505 with the child and to have otherwise met the requirements of
506 this paragraph.

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

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

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

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

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

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

552 | (3) (a) Under ~~Pursuant to~~ chapter 48, an adoption entity
553 | may serve upon any unmarried biological father identified by the
554 | mother or identified by a diligent search of the Florida
555 | Putative Father Registry, or upon an entity whose consent is
556 | required, a notice of intended adoption plan at any time before

557 | the child's birth or before placing ~~prior to the placement of~~
558 | ~~the child in the adoptive home, including prior to the birth of~~
559 | ~~the child.~~ The notice of intended adoption plan must
560 | specifically state that if the unmarried biological father
561 | desires to contest the adoption plan, he must file with the
562 | court, within 30 days after service, a verified response that
563 | contains a pledge of commitment to the child in substantial
564 | compliance with subparagraph (2)(b)2. The notice of intended
565 | adoption plan shall notify the unmarried biological father that,
566 | if he has not already done so, he must file a claim of paternity
567 | form with the Office of Vital Statistics within 30 days after
568 | service upon him and must provide the adoption entity with a
569 | copy of the verified response filed with the court and the claim
570 | of paternity form filed with the Office of Vital Statistics. If
571 | the party served with the notice of intended adoption plan is an
572 | entity, the entity must file, within 30 days after service, a
573 | verified response setting forth a legal basis for contesting the
574 | intended adoption plan, specifically addressing the best
575 | interest of the child. If the unmarried biological father whose
576 | consent is required or the adoption entity whose consent is
577 | required fails to properly file a verified response with the
578 | court and, in the case of an unmarried biological father, a
579 | claim of paternity form with the Office of Vital Statistics
580 | within 30 days after service upon that unmarried biological
581 | father or entity whose consent is required, the consent of that
582 | unmarried biological father or entity is not ~~shall no longer be~~
583 | required under this chapter and that party shall be deemed to
584 | have irrevocably waived any claim of rights to the child. Each

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

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

606 (4) Any person whose consent is required under paragraph
 607 (1)(b), or any other man, ~~paragraphs (1)(c) (e) (e)~~ may execute an
 608 irrevocable affidavit of nonpaternity in lieu of a consent under
 609 this section and by doing so waives notice to all court
 610 proceedings after the date of execution. An affidavit of
 611 nonpaternity must be executed as provided in s. 63.082. The
 612 affidavit of nonpaternity may be executed before ~~prior to~~ the

613 birth of the child. The person executing the affidavit must
 614 receive disclosure under s. 63.085 before ~~prior to~~ signing the
 615 affidavit.

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

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

619 (b) Written notice of the final hearing on the adoption
 620 has been provided to the parents, if any, or proof of service of
 621 process has been filed, showing notice has been served on the
 622 parents as provided in this chapter.

623 (9) A petition for termination of parental rights shall be
 624 filed in the appropriate county as determined under s.
 625 63.087(2). If any ~~the~~ ~~parent~~ ~~or~~ ~~parents~~ whose consent is
 626 required objects ~~rights are to be terminated~~ ~~object~~ to venue in
 627 the county where the action was filed, the court may transfer
 628 venue to a proper venue consistent with this chapter and chapter
 629 47 ~~the action to the county where the objecting parent or~~
 630 ~~parents reside~~, unless the objecting parent has previously
 631 executed a waiver of venue.

632 Section 10. Paragraph (d) of subsection (1), paragraphs
 633 (b), (c), and (e) of subsection (4), subsections (5) and (6),
 634 and paragraphs (a), (b), (c), (d), and (f) of subsection (7) of
 635 section 63.082, Florida Statutes, are amended to read:

636 63.082 Execution of consent to adoption or affidavit of
 637 nonpaternity; family social and medical history; withdrawal of
 638 consent.--

639 (1)

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

647 (4)

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

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

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

671 CONSENT TO ADOPTION

672
673 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT
674 HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH
675 THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE
676 PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A
677 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE
678 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR
679 WITNESSES YOU SELECTED, IF ANY.
680 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE
681 FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS
682 CONSENT:

- 683 1. CONSULT WITH AN ATTORNEY;
- 684 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE
685 LEGALLY PROHIBITED;
- 686 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR
687 FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
- 688 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY
689 PROHIBITED; AND
- 690 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE
691 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.
692 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO
693 YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE
694 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP
695 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED

696 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL
 697 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE
 698 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT
 699 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
 700 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN
 701 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT
 702 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
 703 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY
 704 BE EXECUTED. ANY MAN ~~A BIOLOGICAL FATHER~~ MAY EXECUTE A CONSENT
 705 AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED
 706 THE CONSENT, IT IS VALID, BINDING, AND IRREVOCABLE AND CANNOT BE
 707 WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
 708 DURESS.

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

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

713 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD
 714 OR DURESS.

715
 716 This statement of rights is not required for the adoption of a
 717 relative, an adult, a stepchild, or a child older than 6 months
 718 of age. A consent form for the adoption of a child older than 6
 719 months of age at the time of execution of consent must contain a
 720 statement outlining the revocation rights provided in paragraph
 721 (c).

722 (5) A copy or duplicate original of each consent signed
 723 under this chapter ~~in an action for termination of parental~~

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

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

741 (b) Upon execution of the consent of the ~~birth~~ parent, the
742 adoption entity shall be permitted to intervene in the
743 dependency case as a party in interest and shall provide the
744 court having jurisdiction over the minor pursuant to the shelter
745 or dependency petition filed by the department with a copy of
746 the preliminary home study of the prospective adoptive parents
747 and any other evidence of the suitability of the placement. The
748 preliminary home study shall be maintained with strictest
749 confidentiality within the dependency court file and the
750 department's file. A preliminary home study must be provided to

751 | the court in all cases in which an adoption entity has
 752 | intervened under ~~pursuant to~~ this section.

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

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

772 | (7) (a) A consent that is being withdrawn under paragraph
 773 | (4) (c) may be withdrawn ~~at any time prior to the minor's~~
 774 | ~~placement with the prospective adoptive parents~~ or by notifying
 775 | the adoption entity in writing by certified United States mail,
 776 | return receipt requested, not later than 3 business days after
 777 | execution of the consent. As used in this subsection, the term

778 "business day" means any day on which the United States Postal
 779 Service accepts certified mail for delivery.

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

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

805 investigation by the department is recommended, ~~and whether a~~
 806 ~~relative is available for the temporary placement.~~

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

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

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

821 63.085 Disclosure by adoption entity.--

822 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
 823 ADOPTIVE PARENTS.--Not later than 14 days after a person seeking
 824 to adopt a minor or a person seeking to place a minor for
 825 adoption contacts an adoption entity in person or provides the
 826 adoption entity with a mailing address, the entity must provide
 827 a written disclosure statement to that person if the entity
 828 agrees or continues to work with the ~~such~~ person. If an adoption
 829 entity is assisting in the effort to terminate the parental
 830 rights of a parent who did not initiate ~~the~~ contact with the
 831 adoption entity, the written disclosure must be provided within
 832 14 days after that parent is identified and located. For

861 day the birth mother is notified, in writing, that she is fit
862 for discharge from the licensed hospital or birth center. Any
863 man ~~A putative father~~ may sign a valid consent for adoption at
864 any time after the birth of the child.

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

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

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

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

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

887 10. A birth parent has a right to receive supportive
888 counseling from a counselor, social worker, physician, clergy,

889 or attorney, and such counseling would be beneficial to the
890 birth parent.

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

895 Section 12. Section 63.087, Florida Statutes, is amended
896 to read:

897 63.087 Proceeding to terminate parental rights pending
898 adoption; general provisions.--

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

903 (2) VENUE.--

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

906 1. In the county where the child resides;

907 ~~2. If the child does not reside in the State of Florida,~~
908 ~~in the county where the adoption entity is located;~~

909 2.3- In the county where the adoption entity is located;

910 or

911 3.4- If neither parent resides in the state, in the county
912 where the adoption entity is located. The fact of the minor's
913 presence within the state confers jurisdiction on the court in
914 proceedings in the minor's case under this chapter, or to a
915 parent or guardian if due notice has been given.

916 (b) If a petition for termination of parental rights has
917 been filed and a parent whose consent is required ~~rights are to~~
918 ~~be terminated~~ objects to venue, there must be a hearing in which
919 the court shall determine whether that parent intends to assert
920 legally recognized grounds to contest a termination of parental
921 rights and, if so, the court may ~~shall immediately~~ transfer
922 venue to a proper venue under this subsection ~~the county where~~
923 ~~that parent resides or resided at the time of the execution of~~
924 ~~the consent~~. For purposes of selecting venue, the court shall
925 consider the ease of access to the court for the parent and the
926 factors set forth in s. 47.122 ~~who intends to contest a~~
927 ~~termination of parental rights~~.

928 (c) If there is a transfer of venue, the court may
929 determine which party shall bear the cost of venue transfer.
930
931 For purposes of the hearing under this subsection, witnesses
932 located in another jurisdiction may testify by deposition or
933 testify by telephone, audiovisual means, or other electronic
934 means before a designated court or at another location.
935 Documentary evidence transmitted from another location by
936 technological means that do not produce an original writing may
937 not be excluded from evidence on an objection based on the means
938 of transmission. The court on its own motion may otherwise
939 prescribe the manner in which and the terms upon which the
940 testimony is taken.

941 (3) PREREQUISITE FOR ADOPTION.--A petition for adoption
942 may not be filed until after the date the court enters the
943 judgment terminating parental rights pending adoption ~~under this~~

944 ~~chapter or under chapter 39.~~ Adoptions of relatives, adult
945 adoptions, or adoptions of stepchildren shall not be required to
946 file a separate termination of parental rights proceeding
947 pending adoption. In such cases, the petitioner may file a joint
948 petition for termination of parental rights and adoption
949 attaching all required consents, affidavits, notices, and
950 acknowledgments ~~shall be attached to the petition for adoption~~
951 ~~or filed separately in the adoption proceeding.~~ All provisions
952 of this chapter apply to these joint petitions unless otherwise
953 provided by law.

954 (4) PETITION.--

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

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

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

969 (d) The petition to terminate parental rights pending
970 adoption must be in writing and signed by the petitioner under
971 oath stating the petitioner's good faith in filing the petition.

972 | A written consent to adoption, affidavit of nonpaternity, or
 973 | affidavit of diligent search under s. 63.088, for each person
 974 | whose consent to adoption is required under s. 63.062, must be
 975 | executed and attached.

976 | (e) The petition must include:

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

987 | 2. All information required by the Uniform Child Custody
 988 | Jurisdiction and Enforcement Act and the Indian Child Welfare
 989 | Act, except the names and addresses of the adoptive parents,
 990 | which shall be kept confidential as required by s. 63.162.

991 | 3. A statement of the grounds under s. 63.089 upon which
 992 | the petition is based.

993 | 4. The name, address, and telephone number of any adoption
 994 | entity seeking to place the minor for adoption.

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

997 | 6. A certification of compliance with the requirements of
 998 | s. 63.0425 regarding notice to grandparents of an impending
 999 | adoption.

1000 (5) SUMMONS TO BE ISSUED.--The petitioner shall cause a
 1001 summons to be issued substantially in the form provided in Form
 1002 1.902, Florida Rules of Civil Procedure. The Petition and
 1003 summons and a copy of the petition shall be served upon any
 1004 person who executed a ~~whose~~ consent to adoption or affidavit of
 1005 nonpaternity ~~has been provided~~ but who has not waived service of
 1006 the pleadings and notice of the hearing thereon and also upon
 1007 any person whose consent to adoption is required under s.
 1008 63.062, but who has not provided that consent or an affidavit of
 1009 nonpaternity.

1010 (6) ANSWER AND APPEARANCE REQUIRED.--An answer to the
 1011 petition or any pleading requiring an answer shall be timely
 1012 filed in accordance with the Florida Rules of Civil Procedure.
 1013 Failure to file a written response or to appear at the hearing
 1014 on the petition constitutes grounds upon which the court may
 1015 terminate parental rights. Failure to appear at the hearing
 1016 constitutes grounds upon which the court may terminate parental
 1017 rights. ~~The petitioner shall provide notice of the final hearing~~
 1018 ~~by United States mail to any person who has been served with the~~
 1019 ~~summons and petition for termination of parental rights within~~
 1020 ~~the specified time periods. Notwithstanding the filing of any~~
 1021 ~~answer or any pleading,~~ Any person present at the hearing to
 1022 terminate parental rights pending adoption whose consent to
 1023 adoption is required under s. 63.062 must:

1024 (a) Be advised by the court that he or she has a right to
 1025 ask that the hearing be reset for a later date so that the
 1026 person may consult with an attorney; and

1027 (b) Be given an opportunity to admit or deny the
 1028 allegations in the petition.

1029 Section 13. Subsections (2), (3), (5), and (6) of section
 1030 63.088, Florida Statutes, are amended to read:

1031 63.088 Proceeding to terminate parental rights pending
 1032 adoption; notice and service; diligent search.--

1033 (2) IDENTITY KNOWN AND LOCATION UNKNOWN; PROCEDURES TO
 1034 INITIATE IDENTIFICATION OF LOCATION PROCEDURES.--When the
 1035 location of a person whose consent to an adoption is required
 1036 but is unknown ~~not known~~, the adoption entity must begin the
 1037 inquiry and diligent search process required by this section
 1038 within a reasonable time period after the date on which the
 1039 person seeking to place a minor for adoption has evidenced in
 1040 writing to the adoption entity a desire to place the minor for
 1041 adoption with that entity, or not later than 30 days after the
 1042 date any money is provided as permitted under this chapter by
 1043 the adoption entity for the benefit of the person seeking to
 1044 place a minor for adoption.

1045 (3) LOCATION AND IDENTITY KNOWN.--Before the court may
 1046 determine that a minor is available for adoption, and in
 1047 addition to the other requirements set forth in this chapter,
 1048 each person whose consent is required under s. 63.062, who has
 1049 not executed a consent or an affidavit of nonpaternity, and
 1050 whose location and identity have been determined by compliance
 1051 with the procedures in this section must be personally served,
 1052 pursuant to chapter 48, at least 20 days before the hearing with
 1053 a copy of the summons and a copy of the petition to terminate

1054 parental rights pending adoption as provided under s. 63.087(5)
 1055 and with notice in substantially the following form:

1057 NOTICE OF PETITION AND HEARING
 1058 TO TERMINATE PARENTAL RIGHTS
 1059 PENDING ADOPTION

1060
 1061 A petition to terminate parental rights pending adoption
 1062 has been filed. A copy of the petition is being served
 1063 with this notice. There will be a hearing on the petition
 1064 to terminate parental rights pending adoption on (date) at
 1065 (time) before (judge) at (location, including complete
 1066 name and street address of the courthouse). The court has
 1067 set aside (amount of time) for this hearing.

1068
 1069 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO TIMELY
 1070 FILE A WRITTEN RESPONSE TO THE PETITION AND THIS NOTICE
 1071 WITH THE COURT AND ~~OR~~ TO APPEAR AT THIS HEARING
 1072 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY
 1073 PARENTAL RIGHTS YOU MAY HAVE OR ASSERT REGARDING THE MINOR
 1074 CHILD.

1075
 1076 (5) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry by
 1077 the court under subsection (4) identifies any person whose
 1078 consent to adoption is required under s. 63.062 and who has not
 1079 executed a consent to adoption or an affidavit of nonpaternity,
 1080 and the location of the person from whom consent is required is

1081 | unknown, the adoption entity must conduct a diligent search for
 1082 | that person which must include inquiries concerning:

1083 | (a) The person's current address, or any previous address,
 1084 | through an inquiry of the United States Postal Service through
 1085 | the Freedom of Information Act;

1086 | (b) The last known employment of the person, including the
 1087 | name and address of the person's employer;

1088 | (c) Regulatory agencies, ~~including those~~ regulating
 1089 | professional licensing in the area where the person last
 1090 | resided;

1091 | (d) Names and addresses of relatives to the extent such
 1092 | can be reasonably obtained from the petitioner or other sources,
 1093 | contacts with those relatives, and inquiry as to the person's
 1094 | last known address. The petitioner shall pursue any leads of any
 1095 | addresses to which the person may have moved;

1096 | (e) Information as to whether or not the person may have
 1097 | died and, if so, the date and location;

1098 | (f) Telephone listings in the area where the person last
 1099 | resided;

1100 | (g) Inquiries of law enforcement agencies in the area
 1101 | where the person last resided;

1102 | (h) Highway patrol records in the state where the person
 1103 | last resided;

1104 | (i) Department of Corrections records in the state where
 1105 | the person last resided;

1106 | (j) Hospitals in the area where the person last resided;

1107 (k) Records of utility companies, including water, sewer,
 1108 cable television, and electric companies, in the area where the
 1109 person last resided;

1110 (l) Records of the Armed Forces of the United States as to
 1111 whether there is any information as to the person;

1112 (m) Records of the tax assessor and tax collector in the
 1113 area where the person last resided; and

1114 (n) Search of one Internet databank locator service.
 1115

1116 Any person contacted by a petitioner or adoption entity when
 1117 requesting information under this subsection must release the
 1118 requested information to the petitioner or adoption entity,
 1119 except when prohibited by law, without the necessity of a
 1120 subpoena or a court order. An affidavit of diligent search
 1121 ~~executed by the petitioner and the adoption entity~~ must be filed
 1122 with the court ~~confirming completion of each aspect of the~~
 1123 ~~diligent search enumerated in this subsection and specifying the~~
 1124 ~~results.~~ The diligent search required under this subsection may
 1125 be conducted before the birth of the minor.

1126 (6) CONSTRUCTIVE SERVICE.--This subsection only applies
 1127 if, as to any person whose consent is required under s. 63.062
 1128 and who has not executed a consent to adoption or an affidavit
 1129 of nonpaternity, the location of the person is unknown and the
 1130 inquiry under subsection (4) fails to locate the person. The
 1131 unlocated person must be served notice under subsection (3) by
 1132 constructive service in the manner provided in chapter 49. The
 1133 notice shall be published in the county where the person was
 1134 last known to have resided. The notice, in addition to all

1135 information required under chapter 49, must include a physical
 1136 description, including, but not limited to, age, race, hair and
 1137 eye color, and approximate height and weight of the person, the
 1138 minor's date of birth, and the place of birth of the minor.
 1139 Constructive service by publication shall not be required to
 1140 provide notice to a ~~an identified~~ birth father whose consent is
 1141 not required under ~~pursuant to~~ ss. 63.062 and 63.064.

1142 Section 14. Section 63.089, Florida Statutes, is amended
 1143 to read:

1144 63.089 Proceeding to terminate parental rights pending
 1145 adoption; hearing; grounds; dismissal of petition; judgment.--

1146 (1) HEARING.--The court may terminate parental rights
 1147 pending adoption only after a hearing.

1148 (2) HEARING PREREQUISITES.--The court may hold the hearing
 1149 only when:

1150 (a) For each person whose consent to adoption is required
 1151 under s. 63.062:

1152 1. A consent under s. 63.082 has been executed and filed
 1153 with the court;

1154 2. An affidavit of nonpaternity under s. 63.082 has been
 1155 executed and filed with the court;

1156 3. Notice has been provided under ss. 63.087 and 63.088;
 1157 or

1158 4. The certificate from the Office of Vital Statistics has
 1159 been provided to the court stating that a diligent search has
 1160 been made of the Florida Putative Father Registry created in s.
 1161 63.054 and that no filing has been found pertaining to the
 1162 father of the child in question or, if a filing is found,

1163 | stating the name of the putative father and the time and date of
 1164 | the filing.

1165 | (b) For each notice and petition that must be served under
 1166 | ss. 63.087 and 63.088:

1167 | 1. At least 20 days have elapsed since the date of
 1168 | personal service of process and an affidavit of service has been
 1169 | filed with the court;

1170 | 2. At least 30 days have elapsed since the first date of
 1171 | publication of constructive service and an affidavit of service
 1172 | has been filed with the court; or

1173 | 3. An affidavit of nonpaternity, consent for adoption, or
 1174 | other document that ~~which~~ affirmatively waives service has been
 1175 | executed and filed with the court;

1176 | (c) The minor named in the petition has been born; and

1177 | (d) The petition contains all information required under
 1178 | s. 63.087 and all affidavits of inquiry, diligent search, and
 1179 | service required under s. 63.088 have been obtained and filed
 1180 | with the court.

1181 | (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
 1182 | ADOPTION.--The court may enter a judgment terminating parental
 1183 | rights pending adoption if the court determines by clear and
 1184 | convincing evidence, supported by written findings of fact, that
 1185 | each person whose consent to adoption is required under s.
 1186 | 63.062:

1187 | (a) Has executed a valid consent under s. 63.082 and the
 1188 | consent was obtained according to the requirements of this
 1189 | chapter;

1190 (b) Has executed an affidavit of nonpaternity and the
1191 affidavit was obtained according to the requirements of this
1192 chapter;

1193 (c) Has been served with a notice of the intended adoption
1194 plan in accordance with the provisions of s. 63.062(3) and has
1195 failed to respond within the designated time period;

1196 (d) Has been properly served notice of the proceeding in
1197 accordance with the requirements of this chapter and has failed
1198 to file a written answer and ~~or~~ appear at the evidentiary
1199 hearing resulting in the judgment terminating parental rights
1200 pending adoption;

1201 (e) Has been properly served notice of the proceeding in
1202 accordance with the requirements of this chapter and has been
1203 determined under subsection (4) to have abandoned the minor as
1204 defined in s. 63.032;

1205 (f) Is a parent of the person to be adopted, which parent
1206 has been judicially declared incapacitated with restoration of
1207 competency found to be medically improbable;

1208 (g) Is a person who has legal custody of the person to be
1209 adopted, other than a parent, who has failed to respond in
1210 writing to a request for consent for a period of 60 days or,
1211 after examination of his or her written reasons for withholding
1212 consent, is found by the court to be withholding his or her
1213 consent unreasonably;

1214 (h) Has been properly served notice of the proceeding in
1215 accordance with the requirements of this chapter, but has been
1216 found by the court, after examining written reasons for the

1217 withholding of consent, to be unreasonably withholding his or
1218 her consent; or

1219 (i) Is the spouse of the person to be adopted who has
1220 failed to consent, and the failure of the spouse to consent to
1221 the adoption is excused by reason of prolonged and unexplained
1222 absence, unavailability, incapacity, or circumstances that are
1223 found by the court to constitute unreasonable withholding of
1224 consent.

1225 (4) FINDING OF ABANDONMENT.--A finding of abandonment
1226 resulting in a termination of parental rights must be based upon
1227 clear and convincing evidence that a parent or person having
1228 legal custody has abandoned the child in accordance with the
1229 definition contained in s. 63.032(1). A finding of abandonment
1230 may be based upon emotional abuse or a refusal to provide
1231 reasonable financial support, when able, to a birth mother
1232 during her pregnancy. If, in the opinion of the court, the
1233 efforts of a parent or person having legal custody of the child
1234 to support and communicate with the child are only marginal
1235 efforts that do not evince a settled purpose to assume all
1236 parental duties, the court may declare the child to be
1237 abandoned. In making this decision, the court may consider the
1238 conduct of a father toward the child's mother during her
1239 pregnancy.

1240 (a) In making a determination of abandonment at a hearing
1241 for termination of parental rights under ~~pursuant to~~ this
1242 chapter, the court must consider, among other relevant factors
1243 not inconsistent with this section:

1244 1. Whether the actions alleged to constitute abandonment
 1245 demonstrate a willful disregard for the safety or welfare of the
 1246 child or unborn child;

1247 2. Whether the person alleged to have abandoned the child,
 1248 while being able, failed to provide financial support;

1249 3. Whether the person alleged to have abandoned the child,
 1250 while being able, failed to pay for medical treatment; and

1251 4. Whether the amount of support provided or medical
 1252 expenses paid was appropriate, taking into consideration the
 1253 needs of the child and relative means and resources available to
 1254 the person alleged to have abandoned the child.

1255 (b) The child has been abandoned when the parent of a
 1256 child is incarcerated on or after October 1, 2001, in a state or
 1257 federal correctional institution and:

1258 1. The period of time for which the parent has been or is
 1259 expected to be incarcerated will constitute a significant
 1260 ~~substantial~~ portion of the child's minority ~~period of time~~
 1261 ~~before the child will attain the age of 18 years;~~

1262 2. The incarcerated parent has been determined by the
 1263 court to be a violent career criminal as defined in s. 775.084,
 1264 a habitual violent felony offender as defined in s. 775.084,
 1265 convicted of child abuse as defined in s. 827.03, or a sexual
 1266 predator as defined in s. 775.21; has been convicted of first
 1267 degree or second degree murder in violation of s. 782.04 or a
 1268 sexual battery that constitutes a capital, life, or first degree
 1269 felony violation of s. 794.011; or has been convicted of an
 1270 offense in another jurisdiction which is substantially similar
 1271 to one of the offenses listed in this subparagraph. As used in

1272 | this section, the term "substantially similar offense" means any
 1273 | offense that is substantially similar in elements and penalties
 1274 | to one of those listed in this subparagraph, and that is in
 1275 | violation of a law of any other jurisdiction, whether that of
 1276 | another state, the District of Columbia, the United States or
 1277 | any possession or territory thereof, or any foreign
 1278 | jurisdiction; or

1279 | 3. The court determines by clear and convincing evidence
 1280 | that continuing the parental relationship with the incarcerated
 1281 | parent would be harmful to the child and, for this reason, that
 1282 | termination of the parental rights of the incarcerated parent is
 1283 | in the best interest of the child.

1284 | (5) DISMISSAL OF PETITION.--If the court does not find by
 1285 | clear and convincing evidence that parental rights of a parent
 1286 | should be terminated pending adoption, the court must dismiss
 1287 | the petition and that parent's parental rights that were the
 1288 | subject of such petition shall remain in full force under the
 1289 | law. The order must include written findings in support of the
 1290 | dismissal, including findings as to the criteria in subsection
 1291 | (4) if rejecting a claim of abandonment. Parental rights may not
 1292 | be terminated based upon a consent that the court finds has been
 1293 | timely withdrawn under s. 63.082 or a consent to adoption or
 1294 | affidavit of nonpaternity that the court finds was obtained by
 1295 | fraud or duress. The court must enter an order based upon
 1296 | written findings providing for the placement of the minor. The
 1297 | court may order scientific testing to determine the paternity of
 1298 | the minor at any time during which the court has jurisdiction
 1299 | over the minor, upon a showing that the testing is in compliance

1300 with state law. Further proceedings, if any, regarding the minor
 1301 must be brought in a separate custody action under chapter 61, a
 1302 dependency action under chapter 39, or a paternity action under
 1303 chapter 742.

1304 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
 1305 ADOPTION.--

1306 (a) The judgment terminating parental rights pending
 1307 adoption must be in writing and contain findings of fact as to
 1308 the grounds for terminating parental rights pending adoption.

1309 (b) Within 7 days after filing, the court shall mail a
 1310 copy of the judgment to the department. The clerk shall execute
 1311 a certificate of the ~~such~~ mailing.

1312 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.--

1313 (a) A motion for relief from a judgment terminating
 1314 parental rights must be filed with the court originally entering
 1315 the judgment. The motion must be filed within a reasonable time,
 1316 but not later than 1 year after the entry of the judgment
 1317 terminating parental rights.

1318 (b) No later than 30 days after the filing of a motion
 1319 under this subsection, the court must conduct a preliminary
 1320 hearing to determine what contact, if any, shall be permitted
 1321 between a parent and the child pending resolution of the motion.
 1322 The ~~Such~~ contact shall be considered only if it is requested by
 1323 a parent who has appeared at the hearing. If the court orders
 1324 contact between a parent and child, the order must be issued in
 1325 writing as expeditiously as possible and must state with
 1326 specificity the terms ~~any provisions~~ regarding contact with
 1327 persons other than those with whom the child resides.

1328 (c) At the preliminary hearing, the court, upon the motion
 1329 of any party or upon its own motion, may order scientific
 1330 testing to determine the paternity of the minor if the person
 1331 seeking to set aside the judgment is a person whose consent is
 1332 required alleging to be the child's father and that fact has not
 1333 previously been determined by legitimacy or scientific testing,
 1334 and if the testing is in compliance with state law. The court
 1335 may order visitation with a person for whom scientific testing
 1336 for paternity has been ordered and who has previously
 1337 established a bonded relationship with the child.

1338 (d) Unless otherwise agreed between the parties or for
 1339 good cause shown, the court shall conduct a final hearing on the
 1340 motion for relief from judgment within 45 days after the filing
 1341 and enter its written order as expeditiously as possible
 1342 thereafter.

1343 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
 1344 records pertaining to a petition to terminate parental rights
 1345 pending adoption are related to the subsequent adoption of the
 1346 minor and are subject to ~~the provisions of~~ s. 63.162. The
 1347 confidentiality provisions of this chapter do not apply to the
 1348 extent information regarding persons or proceedings must be made
 1349 available as specified under s. 63.088.

1350 Section 15. Section 63.092, Florida Statutes, is amended
 1351 to read:

1352 63.092 Report to the court of intended placement by an
 1353 adoption entity; at-risk placement; preliminary study.--

1354 (1) REPORT TO THE COURT.--The adoption entity must report
 1355 any intended placement of a minor for adoption with any person

1356 who is not a relative or a stepparent if the adoption entity ~~has~~
1357 ~~knowledge of, or~~ participates in the, ~~such~~ intended placement.
1358 The report must be made to the court before the minor is placed
1359 in the home or within 2 business days ~~48 hours~~ thereafter.
1360 Failure to file the report of intended placement within 2
1361 business days does not constitute grounds to deny the petition
1362 for termination of parental rights or adoption if the report is
1363 subsequently filed and no party is prejudiced by the failure to
1364 file the report in a timely manner.

1365 (2) AT-RISK PLACEMENT.--If the minor is placed in the
1366 prospective adoptive home before the parental rights of the
1367 minor's parents are terminated under s. 63.089, the placement is
1368 an at-risk placement. If the placement is an at-risk placement,
1369 the prospective adoptive parents must acknowledge in writing
1370 before the minor may be placed in the prospective adoptive home
1371 that the placement is at risk. The prospective adoptive parents
1372 shall be advised by the adoption entity, in writing, that the
1373 minor is subject to removal from the prospective adoptive home
1374 by the adoption entity or by court order at any time before
1375 ~~prior to~~ the finalization of the adoption.

1376 (3) PRELIMINARY HOME STUDY.--Before placing the minor in
1377 the intended adoptive home, a preliminary home study must be
1378 performed by a licensed child-placing agency, ~~a child caring~~
1379 ~~agency registered under s. 409.176,~~ a licensed psychologist,
1380 clinical social worker, marriage and family therapist, or mental
1381 health counselor qualified and licensed to perform a home study
1382 in the state or country where the adoptive parent resides
1383 ~~professional, or agency described in s. 61.20(2), unless the~~

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

- 1403 (a) An interview with the intended adoptive parents;
- 1404 (b) Records checks of the department's central abuse
 1405 registry and criminal records correspondence checks under
 1406 ~~pursuant to~~ s. 435.045 through the Department of Law Enforcement
 1407 on the intended adoptive parents;
- 1408 (c) An assessment of the physical environment of the home;
- 1409 (d) A determination of the financial security of the
 1410 intended adoptive parents;

1411 (e) Documentation of counseling and education of the
1412 intended adoptive parents on adoptive parenting;

1413 (f) Documentation that information on adoption and the
1414 adoption process has been provided to the intended adoptive
1415 parents;

1416 (g) Documentation that information on support services
1417 available in the community has been provided to the intended
1418 adoptive parents; and

1419 (h) A copy of each prospective adoptive parent's signed
1420 acknowledgment of receipt of disclosure required by s. 63.085.

1421
1422 If the preliminary home study is favorable, a minor may be
1423 placed in the home pending entry of the judgment of adoption. A
1424 minor may not be placed in the home if the preliminary home
1425 study is unfavorable. If the preliminary home study is
1426 unfavorable, the adoption entity may, within 20 days after
1427 receipt of a copy of the written recommendation, petition the
1428 court to determine the suitability of the intended adoptive
1429 home. A determination as to suitability under this subsection
1430 does not act as a presumption of suitability at the final
1431 hearing. In determining the suitability of the intended adoptive
1432 home, the court must consider the totality of the circumstances
1433 in the home. No minor may be placed in a home in which there
1434 resides any person determined by the court to be a sexual
1435 predator as defined in s. 775.21 or to have been convicted of an
1436 offense listed in s. 63.089(4)(b)2.

1437 Section 16. Subsections (1), (2), (3), and (6) of section
1438 63.102, Florida Statutes, are amended to read:

1439 63.102 Filing of petition for adoption or declaratory
 1440 statement; venue; proceeding for approval of fees and costs.--
 1441 (1) PETITION FOR ADOPTION.--A petition for adoption may
 1442 not be filed until after the entry of the judgment or decree
 1443 terminating parental rights ~~pending adoption under this chapter,~~
 1444 unless the adoptee is an adult or, the petitioner is a
 1445 stepparent or a relative, ~~or the minor has been the subject of a~~
 1446 ~~judgment terminating parental rights under chapter 39.~~ After a
 1447 judgment terminating parental rights has been entered, a
 1448 proceeding for adoption may be commenced by filing a petition
 1449 entitled, "In the Matter of the Adoption of _____" in the
 1450 circuit court. The person to be adopted shall be designated in
 1451 the caption in the name by which he or she is to be known if the
 1452 petition is granted. At the request of a party, the ~~Any~~ name by
 1453 which the minor was previously known may not be disclosed in the
 1454 petition, the notice of hearing according to s. 63.122(3), or
 1455 the judgment of adoption, or court docket according to s.
 1456 63.162(3).
 1457 (2) VENUE.--A petition for adoption or for a declaratory
 1458 statement as to the adoption contract may ~~shall~~ be filed in the
 1459 county where the petition for termination of parental rights was
 1460 granted, in ~~unless the court, in accordance with s. 47.122,~~
 1461 ~~changes the venue to~~ the county where the petitioner or
 1462 petitioners or the minor resides, or where the adoption entity
 1463 ~~with which the minor has been placed~~ is located. The circuit
 1464 court in this state may ~~must~~ retain jurisdiction over the matter
 1465 until a final judgment is entered on the adoption. The Uniform

1466 Child Custody Jurisdiction and Enforcement Act does not apply
 1467 until a final judgment is entered on the adoption.

1468 (3) FILING OF ADOPTION PETITION REQUIRED.--Except in cases
 1469 in which the minor child was placed by the department, unless
 1470 leave of court is granted for good cause shown, a petition for
 1471 adoption shall be filed not later than 60 days after entry of
 1472 the final judgment terminating parental rights.

1473 (6) STEPCCHILD, RELATIVE, AND ADULT ADOPTIONS.--Petitions
 1474 for the adoption of a stepchild, a relative, or an adult may
 1475 ~~shall~~ not require the filing of a separate judgment or separate
 1476 proceeding terminating parental rights pending adoption. The
 1477 final judgment of adoption has ~~shall have~~ the effect of
 1478 terminating parental rights simultaneously with the granting of
 1479 the decree of adoption.

1480 Section 17. Subsection (2) of section 63.112, Florida
 1481 Statutes, is amended to read:

1482 63.112 Petition for adoption; description; report or
 1483 recommendation, exceptions; mailing.--

1484 (2) The following documents are required to be filed with
 1485 the clerk of the court at the time the petition is filed:

1486 (a) A certified copy of the court judgment terminating
 1487 parental rights ~~under chapter 39 or under this chapter~~ or, if
 1488 the adoptee is an adult or a minor relative or stepchild of the
 1489 petitioner, the required consent, unless the ~~such~~ consent is
 1490 excused by the court.

1491 (b) The favorable preliminary home study of the
 1492 department, licensed child-placing agency, or professional under
 1493 ~~pursuant to~~ s. 63.092, as to the suitability of the home in

1494 | which the minor has been placed, unless the petitioner is a
 1495 | stepparent or a relative.

1496 | (c) A copy of any declaratory statement previously entered
 1497 | by the court under ~~pursuant to~~ s. 63.102.

1498 | (d) Documentation that an interview was held with the
 1499 | minor, if older than 12 years of age, unless the court, in the
 1500 | best interest of the minor, dispenses with the minor's consent
 1501 | under s. 63.062(1)(c).

1502 | Section 18. Subsection (3) of section 63.122, Florida
 1503 | Statutes, is amended to read:

1504 | 63.122 Notice of hearing on petition.--

1505 | (3) Upon a showing by the petitioner that the privacy,
 1506 | safety, or ~~and~~ welfare of the petitioner, parent, or minor may
 1507 | be endangered, the court may order the names, addresses, or
 1508 | other identifying information of the petitioner, parent, or
 1509 | minor, or all ~~both~~, to be deleted from the notice of hearing and
 1510 | from the copy of the petition attached thereto, provided the
 1511 | substantive rights of any person will not thereby be affected.

1512 | Section 19. Subsections (1) and (4) of section 63.125,
 1513 | Florida Statutes, are amended to read:

1514 | 63.125 Final home investigation.--

1515 | (1) The final home investigation must be conducted before
 1516 | the adoption becomes final. The investigation may be conducted
 1517 | by a licensed child-placing agency or a licensed professional
 1518 | qualified to conduct home studies in the same manner as provided
 1519 | in s. 63.092 to ascertain whether the adoptive home is a
 1520 | suitable home for the minor and whether the proposed adoption is
 1521 | in the best interest of the minor. Unless directed by the court,

1522 an investigation and recommendation are not required if the
 1523 petitioner is a stepparent or if the minor is related to one of
 1524 the adoptive parents within the third degree of consanguinity.
 1525 The department is required to perform the home investigation
 1526 only if there is no licensed child-placing agency or
 1527 professional pursuant to s. 63.092 in the county in which the
 1528 prospective adoptive parent resides.

1529 (4) The department, the licensed child-placing agency, or
 1530 the professional making the required investigation may request
 1531 other state agencies, licensed professionals qualified to
 1532 conduct a home study, or child-placing agencies within or
 1533 outside this state to make investigations of designated parts of
 1534 the inquiry and to make a written report to the department, the
 1535 professional, or other person or agency.

1536 Section 20. Subsection (4) of section 63.132, Florida
 1537 Statutes, is amended to read:

1538 63.132 Affidavit of expenses and receipts.--

1539 (4) This section does not apply to an adoption by a
 1540 stepparent or an adoption of a relative or adult, does not apply
 1541 to the finalization of an adoption of a minor whose parental
 1542 rights were terminated under chapter 39, and does not apply to
 1543 the recognition of an adoption decree of a minor child adopted
 1544 in a foreign country.

1545 Section 21. Subsection (1) of section 63.135, Florida
 1546 Statutes, is amended to read:

1547 63.135 Information under oath to be submitted to the
 1548 court.--

1549 (1) The adoption entity or petitioner must file an
 1550 affidavit under the Uniform Child Custody Jurisdictional and
 1551 Enforcement Act in a termination of parental rights ~~Each party~~
 1552 ~~in an adoption proceeding,~~ in the first pleading or in an
 1553 affidavit attached to that pleading, ~~shall give information~~
 1554 ~~under oath as to the child's present address, the places where~~
 1555 ~~the child has lived within the last 5 years, and the names and~~
 1556 ~~present addresses of the persons with whom the child has lived~~
 1557 ~~during that period. In the pleading or affidavit each party~~
 1558 ~~shall further declare under oath whether:~~

1559 ~~(a) The party has participated as a party or witness or in~~
 1560 ~~any other capacity in any other litigation concerning the~~
 1561 ~~custody of the same child in this or any other state;~~

1562 ~~(b) The party has information of any custody proceeding~~
 1563 ~~concerning the child pending in a court of this or any other~~
 1564 ~~state; and~~

1565 ~~(c) The party knows of any person not a party to the~~
 1566 ~~proceedings who has physical custody of the child or claims to~~
 1567 ~~have custody or visitation rights with respect to the child.~~

1568 Section 22. Subsections (3) and (4) of section 63.142,
 1569 Florida Statutes, are amended to read:

1570 63.142 Hearing; judgment of adoption.--

1571 (3) DISMISSAL.--

1572 (a) If the petition is dismissed, further proceedings, if
 1573 any, regarding the minor must be brought in a separate custody
 1574 action under chapter 61, a dependency action under chapter 39,
 1575 or a paternity action under chapter 742 ~~the court shall~~
 1576 ~~determine the person that is to have custody of the minor.~~

1577 (b) If the petition is dismissed, the court shall state
 1578 with specificity the reasons for the dismissal.

1579 (4) JUDGMENT.--At the conclusion of the hearing, after the
 1580 court determines that the date for a parent to file an appeal of
 1581 a valid judgment terminating that parent's parental rights has
 1582 passed and no appeal, under ~~pursuant to~~ the Florida Rules of
 1583 Appellate Procedure, is pending and that the adoption is in the
 1584 best interest of the person to be adopted, a judgment of
 1585 adoption shall be entered. A judgment terminating parental
 1586 rights pending adoption is voidable and any later judgment of
 1587 adoption of that minor is voidable if, upon a parent's motion
 1588 for relief from judgment, the court finds that the adoption
 1589 fails to meet the requirements of this chapter. The motion must
 1590 be filed within a reasonable time, but not later than 1 year
 1591 after the date the judgment terminating parental rights was
 1592 entered.

1593 Section 23. Section 63.152, Florida Statutes, is amended
 1594 to read:

1595 63.152 Application for new birth record.--Within 30 days
 1596 after entry of a judgment of adoption, the clerk of the court
 1597 shall transmit a certified statement of the entry to the state
 1598 registrar of vital statistics in the state where the adoptee was
 1599 born on a form provided by the Florida registrar. A new birth
 1600 record containing the necessary information supplied by the
 1601 certificate shall be issued by the registrar on application of
 1602 the adopting parents or the adopted person.

1603 Section 24. Subsections (1), (3), (4), and (7) of section
 1604 63.162, Florida Statutes, are amended, and subsection (8) is
 1605 added to that section, to read:

1606 63.162 Hearings and records in adoption proceedings;
 1607 confidential nature.--

1608 (1) All hearings held in proceedings under this chapter
 1609 ~~act~~ shall be held in closed court without admittance of any
 1610 person other than essential officers of the court, the parties,
 1611 witnesses, counsel, persons who have not consented to the
 1612 adoption and are required to consent, and representatives of the
 1613 agencies who are present to perform their official duties.

1614 (3) The court files, records, and papers in the adoption
 1615 of a minor shall be indexed only in the name of the petitioner,
 1616 and the name of the petitioner and the minor ~~may shall~~ not be
 1617 noted on any docket, index, or other record outside the court
 1618 file, except that closed agency files may be cross-referenced in
 1619 the original and adoptive names of the minor.

1620 (4) A person may not disclose from the records the name
 1621 and identity of a birth parent, an adoptive parent, or an
 1622 adoptee unless:

1623 (a) The birth parent authorizes in writing the release of
 1624 his or her name and files the release with the adoption entity,
 1625 an adoption reunion registry, the department, or the court;

1626 (b) The adoptee, if 18 or more years of age, authorizes in
 1627 writing the release of his or her name; or, if the adoptee is
 1628 less than 18 years of age, written consent to disclose the
 1629 adoptee's name is obtained from an adoptive parent;

1630 (c) The adoptive parent authorizes in writing the release
 1631 of his or her name; or

1632 (d) Upon order of the court for good cause shown. In
 1633 determining whether good cause exists, the court shall give
 1634 primary consideration to the best interests of the adoptee, but
 1635 must also give due consideration to the interests of the
 1636 adoptive and birth parents. Factors to be considered in
 1637 determining whether good cause exists include, but are not
 1638 limited to:

- 1639 1. The reason the information is sought;
- 1640 2. The existence of means available to obtain the desired
 1641 information without disclosing the identity of the birth
 1642 parents, such as by having the court, a person appointed by the
 1643 court, the department, or the licensed child-placing agency
 1644 contact the birth parents and request specific information;
- 1645 3. The desires, to the extent known, of the adoptee, the
 1646 adoptive parents, and the birth parents;
- 1647 4. The age, maturity, judgment, and expressed needs of the
 1648 adoptee; and
- 1649 5. The recommendation of the department, licensed child-
 1650 placing agency, or professional which prepared the preliminary
 1651 study and home investigation, or the department if no such study
 1652 was prepared, concerning the advisability of disclosure.

1653 (7) The court may, upon petition of an adult adoptee, or
 1654 the adoptive parents if the adoptee is less than 18 years of
 1655 age, for good cause shown, appoint an intermediary or a licensed
 1656 child-placing agency to contact a birth parent to ~~who has not~~
 1657 ~~registered with the adoption registry pursuant to s. 63.165 and~~

1658 | advise him or her ~~them~~ of the adoptee's request to open the file
 1659 | or the adoption registry, and offer the birth parent the
 1660 | opportunity to waive confidentiality and consent to the opening
 1661 | of his or her records ~~availability of same.~~

1662 | (8) As a result of any proceeding under s. 382.015, this
 1663 | section, or any other proceeding to unseal an original birth
 1664 | certificate, the Department of Health may release an original
 1665 | sealed birth certificate only to the department. The department
 1666 | must make a written request for the birth certificate from the
 1667 | Department of Health within 10 days after the department's
 1668 | receipt of an order or other documentation authorizing unsealing
 1669 | of the original birth certificate. Upon receipt of the
 1670 | department's request, the Department of Health shall release the
 1671 | original sealed birth certificate to the department in a manner
 1672 | that will ensure confidentiality.

1673 | Section 25. Paragraph (c) of subsection (1) of section
 1674 | 63.172, Florida Statutes, is amended to read:

1675 | 63.172 Effect of judgment of adoption.--

1676 | (1) A judgment of adoption, whether entered by a court of
 1677 | this state, another state, or of any other place, has the
 1678 | following effect:

1679 | (c) ~~Except for rights of inheritance,~~ It creates the
 1680 | relationship between the adopted person and the petitioner and
 1681 | all relatives of the petitioner that would have existed if the
 1682 | adopted person were a blood descendant of the petitioner born
 1683 | within wedlock. This relationship shall be created for all
 1684 | purposes, including the rights of inheritance and applicability
 1685 | of statutes, documents, and instruments, whether executed before

1686 or after entry of the adoption judgment, that do not expressly
 1687 exclude an adopted person from their operation or effect.

1688 Section 26. Section 63.182, Florida Statutes, is amended
 1689 to read:

1690 63.182 Statute of repose.--

1691 (1) Notwithstanding s. 95.031 or s. 95.11 or any other
 1692 statute, an action or proceeding of any kind to vacate, set
 1693 aside, or otherwise nullify a judgment of adoption or an
 1694 underlying judgment terminating parental rights on any ground
 1695 may not be filed more than 1 year after entry of the judgment
 1696 terminating parental rights.

1697 (2) (a) Except for the specific persons expressly entitled
 1698 to be given notice of an adoption in accordance with this
 1699 chapter, the interest which gives a person standing to set aside
 1700 an adoption must be direct, financial, and immediate, and the
 1701 person must show that he or she will gain or lose by the direct
 1702 legal operation and effect of the judgment. A showing of an
 1703 indirect, inconsequential, or contingent interest is wholly
 1704 inadequate, and a person with this indirect interest lacks
 1705 standing to set aside a judgment of adoption.

1706 (b) This subsection is remedial and shall apply to all
 1707 adoptions, including those in which a judgment of adoption has
 1708 already been entered.

1709 Section 27. Section 63.192, Florida Statutes, is amended
 1710 to read:

1711 63.192 Recognition of foreign judgment affecting
 1712 adoption.--A judgment ~~of court~~ terminating the relationship of
 1713 parent and child or establishing the relationship by adoption

1714 issued under ~~pursuant to~~ due process of law by a court or
 1715 governmentally authorized body of any other jurisdiction within
 1716 or without the United States shall be recognized in this state,
 1717 and the rights and obligations of the parties ~~on matters within~~
 1718 ~~the jurisdiction of this state~~ shall be determined as though the
 1719 judgment were issued by a court of this state. When a minor
 1720 child has been made available for adoption in a foreign state or
 1721 foreign country and the parental rights of the minor child's
 1722 parent have been terminated, or the child has been declared to
 1723 be abandoned or orphaned, no additional termination of parental
 1724 rights proceeding need occur, and the parties may proceed to a
 1725 judicial finalization of the adoption according to the
 1726 procedures set forth in this chapter.

1727 Section 28. Section 63.207, Florida Statutes, is amended
 1728 to read:

1729 63.207 Out-of-state placement.--

1730 (1) Unless the parent placing a minor for adoption files
 1731 an affidavit that the parent chooses to place the minor outside
 1732 the state, giving the reason for that placement, or the minor is
 1733 to be placed with a relative or with a stepparent, or the minor
 1734 is a special needs child, as defined in s. 409.166, or for other
 1735 good cause shown, an adoption entity may not:

1736 (a) Take or send a minor out of the state for the purpose
 1737 of placement for adoption; or

1738 (b) Place or attempt to place a minor for the purpose of
 1739 adoption with a family who primarily lives and works outside
 1740 Florida in another state. If an adoption entity is acting under
 1741 this subsection, the adoption entity must file a petition for

1742 declaratory statement under ~~pursuant to~~ s. 63.102 for ~~prior~~
 1743 approval of fees and costs. The court shall review the costs
 1744 under ~~pursuant to~~ s. 63.097. The petition for declaratory
 1745 statement may ~~must~~ be consolidated with ~~converted to~~ a petition
 1746 for an adoption upon placement of the minor in the home. When a
 1747 minor is placed for adoption with prospective adoptive parents
 1748 who primarily live and work outside this state, the circuit
 1749 court in this state may retain jurisdiction over the matter
 1750 until the adoption becomes final. The prospective adoptive
 1751 parents may finalize the adoption in this state or their home
 1752 state.

1753 (2) An adoption entity may not counsel a birth mother to
 1754 leave the state for the purpose of giving birth to a child
 1755 outside the state in order to secure a fee in excess of that
 1756 permitted under s. 63.097 when it is the intention that the
 1757 child is to be placed for adoption outside the state.

1758 (3) When applicable, the Interstate Compact on the
 1759 Placement of Children authorized in s. 409.401 shall be used in
 1760 placing children outside the state for adoption.

1761 Section 29. Paragraphs (b), (c), (f), and (g) of
 1762 subsection (1) and subsections (2) and (7) of section 63.212,
 1763 Florida Statutes, are amended to read:

1764 63.212 Prohibited acts; penalties for violation.--

1765 (1) It is unlawful for any person:

1766 (b) Except an adoption entity, to place or attempt to
 1767 place within the state a minor for adoption unless the minor is
 1768 placed with a relative or with a stepparent. This prohibition,
 1769 however, does not apply to a person who is placing or attempting

1770 to place a minor for the purpose of adoption with the adoption
1771 entity.

1772 (c) To sell or surrender, or to arrange for the sale or
1773 surrender of, a minor to another person for money or anything of
1774 value or to receive a ~~such~~ minor child for a ~~such~~ payment or
1775 thing of value. If a minor is being adopted by a relative or by
1776 a stepparent, or is being adopted through an adoption entity,
1777 this paragraph does not prohibit the person who is contemplating
1778 adopting the child from paying, under ss. 63.097 and 63.132, the
1779 actual prenatal care and living expenses of the mother of the
1780 child to be adopted, or from paying, under ss. 63.097 and
1781 63.132, the actual living and medical expenses of the ~~such~~
1782 mother under these sections ~~for a reasonable time, not to exceed~~
1783 ~~6 weeks, if medical needs require such support, after the birth~~
1784 ~~of the minor.~~

1785 (f) Except an adoption agency or intermediary ~~entity~~, to
1786 charge or accept any fee or compensation of any nature from
1787 anyone for making a referral in connection with an adoption or
1788 for providing adoption services, facilitating, matching, or
1789 placement services.

1790 (g) Except an adoption agency or intermediary ~~entity~~, to
1791 advertise or offer to the public, in any way, by any medium
1792 whatever that a minor is available for adoption or that a minor
1793 is sought for adoption; and, further, it is unlawful for any
1794 person to publish or broadcast any such advertisement without
1795 including a Florida license number of the agency or attorney
1796 placing the advertisement.

1797 (2) (a) It is unlawful for any person under this chapter
 1798 to:

- 1799 1. Knowingly provide false information; or
- 1800 2. Knowingly withhold material information.

1801 (b) It is unlawful for a parent, with the intent to
 1802 defraud, to accept benefits related to the same pregnancy from
 1803 more than one adoption entity without disclosing that fact to
 1804 each entity.

1805 ~~(c) It is unlawful for any person who knows that the~~
 1806 ~~parent whose rights are to be terminated intends to object to~~
 1807 ~~said termination to intentionally file the petition for~~
 1808 ~~termination of parental rights in a county inconsistent with the~~
 1809 ~~required venue under such circumstances.~~

1810
 1811 Any person who willfully violates any provision of this
 1812 subsection commits a misdemeanor of the second degree,
 1813 punishable as provided in s. 775.082 or s. 775.083. In addition,
 1814 the ~~such~~ person is liable for damages caused by the ~~such~~ acts or
 1815 omissions, including reasonable attorney's fees and costs.
 1816 Damages may be awarded through restitution in any related
 1817 criminal prosecution or by filing a separate civil action.

1818 (7) It is unlawful for any adoptive parent or adoption
 1819 entity to obtain a preliminary home study or final home
 1820 investigation and fail to disclose the existence of the study or
 1821 investigation to the court when required by law to do so.

1822 Section 30. Subsections (4) and (5) and paragraph (c) of
 1823 subsection (6) of section 63.213, Florida Statutes, are amended
 1824 to read:

1825 | 63.213 Preplanned adoption agreement.--

1826 | (4) An attorney who represents an intended father and
 1827 | intended mother or any other attorney with whom that attorney is
 1828 | associated shall not represent simultaneously a female who is or
 1829 | proposes to be a volunteer mother in the same ~~any matter~~
 1830 | ~~relating to a preplanned adoption agreement or preplanned~~
 1831 | adoption arrangement.

1832 | (5) Payment to agents, finders, and intermediaries,
 1833 | including attorneys and physicians, as a finder's fee for
 1834 | finding ~~volunteer mothers~~ or matching a volunteer mother and
 1835 | intended father and intended mother is prohibited and subject to
 1836 | the penalties and sanctions under 63.212 and 63.219. Doctors,
 1837 | psychologists, attorneys, and other professionals may receive
 1838 | reasonable compensation for their professional services, such as
 1839 | providing medical services and procedures, legal advice in
 1840 | structuring and negotiating a preplanned adoption agreement, or
 1841 | counseling.

1842 | (6) As used in this section, the term:

1843 | (c) "Fertility technique" means ~~artificial embryonation,~~
 1844 | artificial insemination, whether in vivo or in vitro, ~~egg~~
 1845 | ~~donation, or embryo adoption.~~

1846 | Section 31. Section 63.219, Florida Statutes, is amended
 1847 | to read:

1848 | 63.219 Sanctions.--Upon a finding by the court that an
 1849 | adoption entity or any person has willfully violated any
 1850 | substantive provision of this chapter relative to the rights of
 1851 | the parties to the adoption and legality of the adoption
 1852 | process, the court is authorized to prohibit the adoption entity

1853 or any person from placing a minor for adoption and enjoin them
 1854 from engaging in further placement activities in the future in
 1855 this state.

1856 Section 32. Section 63.236, Florida Statutes, is created
 1857 to read:

1858 63.236 Petitions filed before effective date; governing
 1859 law.--Any petition for termination of parental rights filed
 1860 before the July 1, 2005, shall be governed by the law in effect
 1861 at the time the petition was filed.

1862 Section 33. Paragraph (a) of subsection (2), paragraph (a)
 1863 of subsection (3), and subsection (5) of section 409.166,
 1864 Florida Statutes, are amended to read:

1865 409.166 Special needs children; subsidized adoption
 1866 program.--

1867 (2) DEFINITIONS.--As used in this section, the term:

1868 (a) "Special needs child" means a child whose permanent
 1869 custody has been awarded to the department or to a licensed
 1870 child-placing agency or placed through an adoption intermediary
 1871 and:

1872 1. Who has established significant emotional ties with his
 1873 or her foster parents; or

1874 2. Is not likely to be adopted because he or she is:

1875 a. Eight years of age or older;

1876 b. Mentally retarded;

1877 c. Physically or emotionally handicapped;

1878 d. Of black ~~or racially mixed~~ parentage; or

1879 e. A member of a sibling group of any age, provided two or
 1880 more members of a sibling group remain together for purposes of
 1881 adoption.

1882 (3) ADMINISTRATION OF PROGRAM.--

1883 (a) The department shall establish and administer an
 1884 adoption program for special needs children to be carried out by
 1885 the department or by contract with a licensed child-placing
 1886 agency or adoption intermediary. The program shall attempt to
 1887 increase the number of persons seeking to adopt special needs
 1888 children and the number of adoption placements and shall extend
 1889 subsidies and services, when needed, to the adopting parents of
 1890 a special needs child.

1891 (5) WAIVER OF ADOPTION FEES.--The adoption fees shall be
 1892 waived for all adoptive parents who participate in the program
 1893 who adopt children in the custody of the department. Fees may be
 1894 waived for families who adopt children in the custody of
 1895 licensed child-placing agencies or who adopt children through
 1896 intermediary-placed ~~independent~~ adoptions, and who receive or
 1897 may be eligible for subsidies through the department.
 1898 Retroactive reimbursement of fees may not be required for
 1899 families who adopt children in the custody of licensed child-
 1900 placing agencies.

1901 Section 34. Paragraph (b) of subsection (5), paragraph (b)
 1902 of subsection (10), paragraph (b) of subsection (11), and
 1903 subsection (14) of section 409.176, Florida Statutes, are
 1904 amended to read:

1905 409.176 Registration of residential child-caring agencies
 1906 and family foster homes.--

1907 (5) The licensing provisions of s. 409.175 do not apply to
 1908 a facility operated by an organization that:

1909 (b) Is certified by a Florida statewide child care
 1910 organization which was in existence on January 1, 1984, and
 1911 which publishes, and requires compliance with, its standards and
 1912 files copies thereof with the department. These ~~Such~~ standards
 1913 shall be in substantial compliance with published minimum
 1914 standards that similar licensed child-caring agencies, licensed
 1915 child-placing agencies, or family foster homes are required to
 1916 meet, as determined by the department, with the exception of
 1917 those standards of a curricular or religious nature and those
 1918 relating to staffing or financial stability of licensed child-
 1919 caring agencies or family foster homes. Once the department has
 1920 determined that the standards for child-caring agencies, child-
 1921 placing agencies, or family foster homes are in substantial
 1922 compliance with minimum standards that similar facilities are
 1923 required to meet, the standards do not have to be resubmitted to
 1924 the department unless a change occurs in the standards. Any
 1925 changes in the standards shall be provided to the department
 1926 within 10 days of their adoption.

1927 (10)

1928 (b) The qualified association shall notify the department
 1929 when the qualified association finds, within 30 days after
 1930 written notification by registered mail of the requirement for
 1931 registration, that a person or facility continues to care for
 1932 children without a certificate of registration. The department
 1933 shall notify the appropriate state attorney of the violation of
 1934 law and, if necessary, shall institute a civil suit to enjoin

1935 | the person or facility from continuing the care or placement of
 1936 | children.

1937 | (11)

1938 | (b) If the department determines that a person or facility
 1939 | is caring for or placing a child without a valid certificate of
 1940 | registration issued by the qualified association or has made a
 1941 | willful or intentional misstatement on any registration
 1942 | application or other document required to be filed in connection
 1943 | with an application for a certificate of registration, the
 1944 | qualified association, as an alternative to or in conjunction
 1945 | with an administrative action against the ~~such~~ person or
 1946 | facility, shall make a reasonable attempt to discuss each
 1947 | violation with, and recommend corrective action to, the person
 1948 | or the administrator of the facility, prior to written
 1949 | notification thereof.

1950 | (14) Registration under this section, including the issue
 1951 | of substantial compliance with published minimum standards that
 1952 | similar licensed child-caring facilities, licensed child-placing
 1953 | agencies, or family foster homes are required to meet, as
 1954 | provided in paragraph (5) (b), is subject to ~~the provisions of~~
 1955 | chapter 120.

1956 | Section 35. Section 742.14, Florida Statutes, is amended
 1957 | to read:

1958 | 742.14 Donation of eggs, sperm, ~~or~~ preembryos, or
 1959 | embryos.--The donor of any egg, sperm, ~~or~~ preembryo, or embryo,
 1960 | other than the commissioning couple or a father who has executed
 1961 | a preplanned adoption agreement under s. 63.212, shall
 1962 | relinquish all maternal or paternal rights and obligations with

1963 | respect to the donation or the resulting children simultaneously
 1964 | upon the completion of the donation by operation of law. Only
 1965 | reasonable compensation directly related to the donation of
 1966 | eggs, sperm, ~~and~~ preembryos, and embryos shall be permitted.

1967 | Section 36. Subsection (2) of section 742.15, Florida
 1968 | Statutes, is amended to read:

1969 | 742.15 Gestational surrogacy contract.--

1970 | (2) The commissioning couple shall enter into a contract
 1971 | with a gestational surrogate only when, within reasonable
 1972 | medical certainty as determined by a physician licensed under
 1973 | chapter 458 or chapter 459 or a physician licensed under an
 1974 | equivalent law in the physician's state of practice:

1975 | (a) The commissioning mother cannot physically gestate a
 1976 | pregnancy to term;

1977 | (b) The gestation will cause a risk to the physical health
 1978 | of the commissioning mother; or

1979 | (c) The gestation will cause a risk to the health of the
 1980 | fetus.

1981 | Section 37. Subsections (6) and (7) of section 742.16,
 1982 | Florida Statutes, are amended to read:

1983 | 742.16 Expedited affirmation of parental status for
 1984 | gestational surrogacy.--

1985 | (6) The commissioning couple or their legal representative
 1986 | shall appear at the hearing on the petition. At the conclusion
 1987 | of the hearing, after the court has determined that a binding
 1988 | and enforceable gestational surrogacy contract has been executed
 1989 | pursuant to s. 742.15 and that there is no evidence that the
 1990 | gestational surrogate is the genetic mother ~~at least one member~~

1991 ~~of the commissioning couple is the genetic parent~~ of the child,
 1992 the court shall enter an order stating that the commissioning
 1993 couple are the legal parents of the child.

1994 (7) When there is no evidence that the gestational
 1995 surrogate is the genetic mother ~~at least one member of the~~
 1996 ~~commissioning couple is the genetic parent~~ of the child, the
 1997 commissioning couple shall be presumed to be the natural parents
 1998 of the child.

1999 Section 38. Section 742.18, Florida Statutes, is created
 2000 to read:

2001 742.18 Prohibited fees and acts.--

2002 (1) A person or entity, except a licensed physician,
 2003 fertility clinic, or attorney, may not:

2004 (a) Receive compensation in advising or assisting in donor
 2005 or gestational carrier arrangements.

2006 (b) Advertise or offer to the public, in any way, by any
 2007 medium whatsoever, that a donor, carrier, or intended parent is
 2008 sought for or available for matching or that the person or
 2009 entity provides services in the arrangements.

2010 (c) Publish or broadcast any advertisement except that an
 2011 intended parent or parents, carrier, or donor seeks a donor,
 2012 intended parent, or carrier for the person's or entity's own
 2013 arrangement.

2014 (d) Charge or accept any fee or compensation of any nature
 2015 to or from anyone for making a referral in connection with a
 2016 donor or carrier arrangement or for facilitating such an
 2017 arrangement.

2018 (e) Hold funds in escrow in a donor or gestational carrier
2019 arrangement.

2020 (f) Assist in the commission of any act in paragraphs (a)-
2021 (e).

2022 (2) A fee, whether denominated as an agent, agency,
2023 finder, or facilitator's fee for finding, screening, matching,
2024 or facilitating a donor or gestational carrier arrangement, may
2025 not be paid to or received by a person other than a licensed
2026 physician, a fertility clinic, or an attorney.

2027 (3) A person or entity who violates this section may be
2028 enjoined by a court from engaging in these practices in this
2029 state.

2030 (4) (a) A person who willfully violates this section
2031 commits a misdemeanor of the second degree, punishable as
2032 provided in s. 775.082 or s. 775.083. Each day of a continuing
2033 violation constitutes a separate offense.

2034 (b) A person who violates this section is liable for
2035 damages caused by his or her acts or omissions and for
2036 reasonable attorney's fees and costs. Damages may be awarded
2037 through restitution in any related criminal prosecution or by
2038 filing a separate civil action.

2039 Section 39. This act shall take effect July 1, 2005.