

By Senator Campbell

32-827-05

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

1 he may initiate an action in any county in the
2 state; amending s. 63.062, F.S.; specifying who
3 is required to consent to an adoption;
4 providing that an adoption agency may file a
5 notice of an intended adoption plan at any time
6 before the birth of the child or before placing
7 the child in the adoptive home; requiring an
8 adoption entity to make a good faith effort to
9 locate the putative father; providing when an
10 adoption entity has no further obligation to
11 search for the putative father; providing for
12 the proper venue to file a petition to
13 terminate parental rights; amending s. 63.064,
14 F.S.; providing that a court may waive consent
15 for an adoption if the person from whom consent
16 is required has been judicially declared
17 incompetent and for whom restoration is
18 improbable within a reasonable period of time,
19 taking into consideration the best interests of
20 the child; amending s. 63.082, F.S.; providing
21 that consent for a minor parent who is 14 years
22 of age or younger may be witnessed by a
23 stepparent or designated guardian; limiting
24 revocation of a consent to adopt to 3 days if
25 the child is older than 6 months of age;
26 authorizing a court to transfer a child to the
27 prospective adoptive parents under certain
28 circumstances; requiring the adoption entity to
29 file a petition for adoption or termination of
30 parental rights after the transfer of the
31 child; providing procedures to follow if a

1 person whose consent is required withdraws
2 consent; amending s. 63.085, F.S.; clarifying
3 the time to revoke consent; amending s. 63.087,
4 F.S.; providing procedures to terminate
5 parental rights pending an adoption; providing
6 jurisdiction of the court; providing the proper
7 venue in which to file a petition to terminate
8 parental rights; requiring a person to answer
9 the petition and to appear at the hearing for
10 termination of parental rights; amending s.
11 63.088, F.S.; requiring the court to conduct an
12 inquiry concerning the father of the child who
13 is to be adopted; amending s. 63.089, F.S.;
14 providing grounds to terminate parental rights;
15 providing that a court may terminate the
16 parental rights of a person who has been
17 judicially declared incompetent and is not
18 likely to fulfill his or her parental
19 responsibilities; amending s. 63.092, F.S.;
20 providing that if an adoption entity fails to
21 file the report of its intended placement
22 within the specified time period the failure
23 does not constitute grounds to deny the
24 petition for termination of parental rights or
25 adoption under certain circumstances;
26 identifying additional individuals who may
27 perform a home study; providing an exception if
28 the person to be adopted is an adult; amending
29 s. 63.097, F.S.; providing for fees to be paid
30 to an adoption entity; amending s. 63.102,
31 F.S.; providing procedures for the filing of a

1 petition for adoption; providing the proper
2 venue where the petition may be filed;
3 providing for an approval of fees; amending s.
4 63.112, F.S.; requiring that a certified copy
5 of a judgement terminating parental rights be
6 filed at the same time the petition is filed;
7 amending s. 63.122, F.S.; providing that
8 certain information may be removed from the
9 petition; amending s. 63.125, F.S.; providing
10 certain licensed professionals may conduct the
11 final home investigation; amending s. 63.132,
12 F.S.; requiring the adoptive parent and the
13 adoption entity to file an affidavit itemizing
14 all expenses and receipts; detailing the
15 expenses and receipts that must be in the
16 affidavit; providing an exception; amending s.
17 63.135, F.S.; requiring the adoption entity or
18 petitioner to file an affidavit under the
19 Uniform Child Custody Jurisdictional and
20 Enforcement Act; amending s. 63.142, F.S.;
21 requiring that if an adoption petition is
22 dismissed, further proceedings, if any,
23 regarding the minor be brought in a separate
24 custody action under ch. 61, F.S., a dependency
25 action under ch. 39, F.S., or a paternity
26 action under ch. 742, F.S.; amending s. 63.152,
27 F.S.; requiring the clerk of court to transmit
28 a certified statement of the adoption to the
29 state where the child was born; amending s.
30 63.162, F.S.; clarifying that the court index
31 of adoption files is not a public record and

1 not open to public inspection; authorizing the
2 birth parent to release his or her name under
3 certain circumstances; authorizes a court to
4 permit certain entities to contact a birth
5 parent to advise him or her of the adoptee's
6 request to open the file or the adoption
7 registry, and provide the opportunity to waive
8 confidentiality and consent to the opening of
9 records; amending s. 63.192, F.S.; requiring
10 the courts of this state to recognize decrees
11 of termination of parental rights and adoptions
12 from other states; amending s. 63.207, F.S.;
13 requiring that the interstate compact on
14 adoption be used for out-of-state placements
15 for adoption unless excused by a court for good
16 cause; amending s. 63.212, F.S.; prohibiting
17 certain acts; amending s. 63.213, F.S.;
18 prohibiting an attorney from representing the
19 volunteer mother and the intended mother in a
20 preplanned adoption arrangement; creating s.
21 63.236, F.S.; providing that any petition for
22 termination of parental rights filed before the
23 effective date of the act is governed by the
24 law in effect at the time the petition was
25 filed; amending s. 409.166, F.S.; redefining
26 the term "special needs child" to remove
27 children of racially mixed parentage; amending
28 s. 409.176, F.S.; providing that licensing
29 provisions do not apply to certain licensed
30 child-placing agencies; amending s. 742.14,
31 F.S.; providing that the donor of an embryo

1 relinquishes all parental rights and
2 obligations to the embryo or the resulting
3 children at the time of the donation; amending
4 s. 742.15, F.S.; authorizing a physician in a
5 state outside this state to advise a
6 commissioning couple concerning a gestational
7 surrogate; creating s. 742.18, F.S; prohibiting
8 a person or entity, except a licensed
9 physician, fertility clinic, or attorney from
10 doing certain specified acts; prohibiting a
11 person other than a licensed physician,
12 fertility clinic, or attorney from accepting a
13 fee for finding, screening, matching, or
14 facilitating a donor or gestational carrier
15 arrangement; providing that if a person
16 willfully violates the act he or she commits a
17 misdemeanor of the second degree; providing
18 criminal penalties; providing that if a person
19 violates the act he or she is liable for
20 damages caused by his or her acts or omissions
21 and for reasonable attorney's fees and costs;
22 reenacting ss. 39.01(49), 984.03(39), and
23 985.03(40), F.S., relating to the definition of
24 a parent, to incorporate the amendment made to
25 s. 63.062, F.S., in references thereto;
26 providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraph (e) of subsection (4) and
2 subsection (5) of section 63.022, Florida Statutes, are
3 amended to read:

4 63.022 Legislative intent.--

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

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

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

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

20 63.032 Definitions.--As used in this chapter, the
21 term:

22 (1) "Abandoned" means a situation in which the parent
23 or person having legal custody of a child, while being able,
24 makes minimal or no provision for the child's support ~~or and~~
25 makes minimal ~~little~~ or no effort to communicate with the
26 child, which situation is sufficient to evince an intent to
27 reject parental responsibilities. If, in the opinion of the
28 court, the efforts of ~~the~~ such parent or person having legal
29 custody of the child to support and communicate with the child
30 are only marginal efforts that do not evince a settled purpose
31 to assume all parental duties, the court may declare the child

1 to be abandoned. In making this decision, the court may
2 consider the conduct of a father towards the child's mother
3 during her pregnancy.

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

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

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

20 (5)~~(4)~~ "Adult" means a person who is not a minor.

21 (6)~~(5)~~ "Agency" means any child-placing agency
22 licensed by the department under ~~pursuant to~~ s. 63.202 to
23 place minors for adoption.

24 (7)~~(6)~~ "Child" means a son or daughter, whether by
25 birth or adoption.

26 (8)~~(7)~~ "Court" means any circuit court of this state
27 and, when the context requires, the court of any state that is
28 empowered to grant petitions for adoption.

29 (9)~~(8)~~ "Department" means the Department of Children
30 and Family Services.

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1 ~~(10)(9)~~ "Intermediary" means an attorney who is
2 licensed or authorized to practice in this state and who is
3 placing or intends to place a child for adoption, including
4 placing children born in another state with citizens of this
5 state or country or placing children born in this state with
6 citizens of another state or country.

7 ~~(11)(10)~~ "Legal custody" means a legal status created
8 by court order or letter of guardianship which vests in a
9 custodian of the child or guardian, whether an agency or an
10 individual, the right to have physical custody of the child
11 and the right and duty to protect, train, and discipline the
12 child and to provide him or her with food, shelter, education,
13 and ordinary medical, dental, psychiatric, and psychological
14 care. The legal custodian is the person or entity in whom the
15 legal right to custody is vested ~~has the meaning ascribed in~~
16 ~~s. 39.01.~~

17 ~~(12)(11)~~ "Minor" means a person under the age of 18
18 years.

19 ~~(13)(12)~~ "Parent" means a woman who gives birth to a
20 child and a man whose consent to the adoption of the child
21 would be required under s. 63.062. If a child has been legally
22 adopted, the term "parent" means the adoptive mother or father
23 of the child. The terms "parent," "mother," and "father" do
24 not include an individual whose parental relationship to the
25 child has been legally terminated ~~has the same meaning~~
26 ~~ascribed in s. 39.01.~~

27 ~~(14)(13)~~ "Person" has the same meaning as in s. 1.01
28 ~~includes a natural person, corporation, government or~~
29 ~~governmental subdivision or agency, business trust, estate,~~
30 ~~trust, partnership, or association, and any other legal~~
31 ~~entity.~~

1 ~~(15)~~~~(14)~~ "Relative" means a person related by blood or
2 affinity to the person being adopted within the third degree
3 of consanguinity.

4 ~~(16)~~~~(15)~~ "To place" or "placement" means the process
5 of a parent or legal guardian surrendering a child for
6 adoption and the prospective adoptive parents receiving and
7 adopting the child, and includes all actions by any person or
8 adoption entity participating in the process.

9 ~~(17)~~ "Primarily lives and works in Florida" means a
10 person who lives and works in this state at least 6 months and
11 1 day of the year, military personnel who designate Florida as
12 their place of residence in accordance with the Servicemembers
13 Civil Relief Act, Pub. L. No. 108-189, or United States
14 citizens living in a foreign country who designate Florida as
15 their place of residence.

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

21 ~~(18)~~~~(17)~~ "Primarily lives and works outside Florida"
22 means a person who lives and works outside this state at least
23 6 months and 1 day of the year, military personnel who
24 designate a state other than Florida as their place of
25 residence in accordance with the Servicemembers Civil Relief
26 Act, Pub. L. No. 108-189 ~~Soldiers' and Sailors' Civil Relief~~
27 ~~Act of 1940, or~~ citizens ~~employees~~ of the United States
28 ~~Department of State~~ living in a foreign country who designate
29 a state other than Florida as their place of residence.
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1 ~~(19)~~~~(18)~~ "Suitability of the intended placement"
2 includes the fitness of the intended placement, with primary
3 consideration being given to the best interest of the child.

4 ~~(20)~~~~(19)~~ "Unmarried biological father" means the
5 child's biological father who is not married to the child's
6 mother at the time of conception or birth of the child and who
7 has not been declared by a court of competent jurisdiction to
8 be the legal father of the child.

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

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

16 63.039 Duty of adoption entity to prospective adoptive
17 parents; sanctions.--

18 (1) An adoption entity placing a minor for adoption
19 has an affirmative duty to follow the requirements of this
20 chapter and specifically the following provisions, which
21 protect and promote the well-being of persons being adopted
22 and their parents and prospective adoptive parents by
23 promoting certainty, finality, and permanency for such
24 persons. The adoption entity must:

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

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

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

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

8 63.0423 Procedures with respect to abandoned
9 infants.--

10 (9)(a) A judgment terminating parental rights pending
11 adoption involving a minor who was abandoned is voidable, and
12 any later judgment of adoption of that minor is voidable, if,
13 upon the motion of a ~~birth~~ parent whose consent is required
14 for adoption, the court finds that a person knowingly gave
15 false information that prevented the ~~birth~~ parent from timely
16 making known his or her desire to assume parental
17 responsibilities toward the minor or from exercising his or
18 her parental rights. A motion under this subsection must be
19 filed with the court originally entering the judgment. The
20 motion must be filed within a reasonable time, but not later
21 than 1 year after the entry of the judgment terminating
22 parental rights.

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

1 possible and must state with specificity the terms ~~any~~
2 ~~provisions~~ regarding contact with persons other than those
3 with whom the child resides.

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

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

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

21 63.052 Guardians designated; proof of commitment.--

22 (1) For minors who have been placed for adoption with
23 ~~and permanently committed to~~ an adoption entity, other than an
24 intermediary, such adoption entity shall be the guardian of
25 the person of the minor and has the responsibility and
26 authority to provide for the needs and welfare of the minor.

27 (7) The court retains jurisdiction of a minor who has
28 been placed for adoption until the adoption is finalized
29 within or outside this state ~~final~~. After a minor is placed
30 with an adoption entity or prospective adoptive parent, the
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1 court may review the status of the minor and the progress
2 toward permanent adoptive placement.

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

5 63.053 Rights and responsibilities of an unmarried
6 biological father; legislative findings.--

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

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

19 63.054 Actions required by an unmarried biological
20 father to establish parental rights; Florida Putative Father
21 Registry.--

22 (6) It is the obligation of the registrant or, if
23 designated under subsection (4), his designated agent or
24 representative to notify and update the Office of Vital
25 Statistics of any change of address or change in the
26 designation of an agent or representative. The failure of a
27 registrant, or designated agent or representative, to report
28 any ~~such~~ change is at the registrant's own risk, ~~and~~ shall not
29 serve as a valid defense based upon lack of notice, and the
30 adoption entity or petitioner shall have no further obligation
31 to search for the registrant unless the person petitioning for

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

4 (7) In each proceeding for termination of parental
5 rights or each adoption proceeding in which parental rights
6 are being terminated simultaneously with entry of the final
7 judgment of adoption, as in stepparent and relative adoptions
8 filed under this chapter, the petitioner must contact the
9 Office of Vital Statistics of the Department of Health by
10 submitting an application for a search of the Florida Putative
11 Father Registry. The petitioner shall provide the same
12 information, if known, on the search application form which
13 the registrant is required to furnish under subsection (3).
14 Thereafter, the Office of Vital Statistics must issue a
15 certificate signed by the State Registrar certifying:

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

21 (b) That a diligent search has been made of the
22 registry of registrants who may be the unmarried biological
23 father of the subject child and that no matching registration
24 has been located in the registry. ~~The This~~ certificate must be
25 filed with the court in the proceeding to terminate parental
26 rights or the adoption proceeding. If a termination of
27 parental rights and an adoption proceeding are being
28 adjudicated separately ~~simultaneously~~, the Florida Putative
29 Father Registry need only be searched once.

30 (8) If an unmarried biological father whose consent to
31 adoption is required does not know the county in which the

1 birth mother resides, gave birth, or intends to give birth, he
2 may initiate an action in any county in the state, in
3 accordance with s. 63.087 ~~subject to the birth mother's right~~
4 ~~to change venue to the county where she resides.~~

5 (13) The filing of a claim of paternity with the
6 Florida Putative Father Registry does not excuse or waive the
7 obligation of a petitioner to comply with the requirements for
8 conducting a diligent search and inquiry with respect to the
9 identity of any man whose consent is required under s. 63.062
10 ~~an unmarried biological father or legal father which are set~~
11 ~~forth in this chapter.~~

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

14 63.062 Persons required to consent to adoption;
15 affidavit of nonpaternity; waiver of venue.--

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

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

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

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

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

30 3. The minor has been established by court proceeding
31 to be his child before the filing of a petition for

1 termination of parental rights and he has complied with the
2 requirements of subsection (2);

3 4. He has filed an affidavit of paternity under
4 ~~pursuant to~~ s. 382.013(2)(c) before the filing of a petition
5 for termination of parental rights and has complied with the
6 requirements of subsection (2); or

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

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

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

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

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

26 (a)1. With regard to a child who is placed with
27 adoptive parents more than 6 months after the child's birth,
28 an unmarried biological father must have developed a
29 substantial relationship with the child, taken some measure of
30 responsibility for the child and the child's future, and
31 demonstrated a full commitment to the responsibilities of

1 | parenthood by providing financial support to the child in
2 | accordance with the unmarried biological father's ability, if
3 | not prevented from doing so by the person or authorized agency
4 | having lawful custody of the child, and either:

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

9 | b. Maintained regular communication with the child or
10 | with the person or agency having the care or custody of the
11 | child, when physically or financially unable to visit the
12 | child and ~~or~~ when not prevented from doing so by the birth
13 | mother or person or authorized agency having lawful custody of
14 | the child.

15 | 2. The mere fact that an unmarried biological father
16 | expresses a desire to fulfill his responsibilities towards his
17 | child which is unsupported by acts evidencing this intent does
18 | not preclude a finding by the court that the unmarried
19 | biological father failed to comply with the requirements of
20 | this subsection.

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

29 | (b) With regard to a child who is younger than 6
30 | months of age at the time the child is placed with the
31 | adoptive parents, an unmarried biological father must have

1 demonstrated a full commitment to his parental responsibility
2 by having performed all of the following acts before ~~prior to~~
3 the time the mother executes her consent for adoption or a
4 petition for termination of parental rights has been filed,
5 whichever is earlier:

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

13 2. Upon service of a notice of an intended adoption
14 plan or a petition for termination of parental rights pending
15 adoption, timely execute ~~executed~~ and file ~~filed~~ an affidavit
16 in that proceeding stating that he is personally fully able
17 and willing to take responsibility for the child, setting
18 forth his plans for care of the child, and agreeing to a court
19 order of child support and a contribution to the payment of
20 living and medical expenses incurred for the mother's
21 pregnancy and the child's birth in accordance with his ability
22 to pay.

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

29 (c) The petitioner shall file with the court a
30 certificate from the Office of Vital Statistics stating that a
31 diligent search has been made of the Florida Putative Father

1 Registry of notices from unmarried biological fathers
2 described in subparagraph (b)1. and that no filing has been
3 found pertaining to the father of the child in question or, if
4 a filing is found, stating the name of the putative father and
5 the time and date of filing. That certificate shall be filed
6 with the court before the ~~prior to the~~ entry of a final
7 judgment of termination of parental rights.

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

15 (3)(a) Under ~~Pursuant to~~ chapter 48, an adoption
16 entity may serve upon any unmarried biological father
17 identified by the mother or identified by a diligent search of
18 the Florida Putative Father Registry, or upon an entity whose
19 consent is required, a notice of intended adoption plan at any
20 time before the child's birth or before placing ~~prior to the~~
21 ~~placement of the child in the adoptive home, including prior~~
22 ~~to the birth of the child.~~ The notice of intended adoption
23 plan must specifically state that if the unmarried biological
24 father desires to contest the adoption plan, he must file with
25 the court, within 30 days after service, a verified response
26 that contains a pledge of commitment to the child in
27 substantial compliance with subparagraph (2)(b)2. The notice
28 of intended adoption plan shall notify the unmarried
29 biological father that, if he has not already done so, he must
30 file a claim of paternity form with the Office of Vital
31 Statistics within 30 days after service upon him and must

1 provide the adoption entity with a copy of the verified
2 response filed with the court and the claim of paternity form
3 filed with the Office of Vital Statistics. If the party served
4 with the notice of intended adoption plan is an entity, the
5 entity must file, within 30 days after service, a verified
6 response setting forth a legal basis for contesting the
7 intended adoption plan, specifically addressing the best
8 interest of the child. If the adoption entity whose consent is
9 required or the unmarried biological father ~~or entity~~ whose
10 consent is required fails to properly file a verified response
11 with the court and, in the case of an unmarried biological
12 father, a claim of paternity form with the Office of Vital
13 Statistics within 30 days after service upon that unmarried
14 biological father or entity whose consent is required, the
15 consent of that unmarried biological father or entity is not
16 ~~shall no longer be~~ required under this chapter and that party
17 shall be deemed to have irrevocably waived any claim of rights
18 to the child. Each notice of intended adoption plan served
19 upon an unmarried biological father must include instructions
20 as to the procedure the unmarried biological father must
21 follow to submit a claim of paternity form to the Office of
22 Vital Statistics and the address to which the registration
23 must be directed.

24 (b) ~~If the birth mother identifies a man who she~~
25 ~~believes is the unmarried biological father of her child, the~~
26 ~~adoption entity may provide a notice of intended adoption plan~~
27 ~~pursuant to paragraph (a).~~ If the mother identifies a
28 potential unmarried biological father whose location is
29 unknown, the adoption entity who has been retained to
30 terminate any parental rights that might be asserted by the
31 person must thereafter make a good faith effort to locate him

1 ~~shall conduct a diligent search pursuant to s. 63.088. If,~~
2 ~~upon completion of a diligent search,~~ the potential unmarried
3 biological father's location remains unknown and a search of
4 the Florida Putative Father Registry fails to provide an
5 address for him ~~reveal a match,~~ the adoption entity has ~~shall~~
6 ~~request in the petition for termination of parental rights~~
7 ~~pending adoption that the court declare the diligent search to~~
8 ~~be in compliance with s. 63.088 and to further declare that~~
9 ~~the adoption entity shall have~~ no further obligation to
10 provide notice to the potential unmarried biological father
11 ~~and that the potential unmarried biological father's consent~~
12 ~~to the adoption shall not be required.~~

13 (4) Any person whose consent is required under
14 paragraph (1)(b), or any other man, ~~paragraphs (1)(c) (c)~~ may
15 execute an irrevocable affidavit of nonpaternity in lieu of a
16 consent under this section and by doing so waives notice to
17 all court proceedings after the date of execution. An
18 affidavit of nonpaternity must be executed as provided in s.
19 63.082. The affidavit of nonpaternity may be executed before
20 ~~prior to~~ the birth of the child. The person executing the
21 affidavit must receive disclosure under s. 63.085 before ~~prior~~
22 ~~to~~ signing the affidavit.

23 (9) A petition for termination of parental rights
24 shall be filed in the appropriate county as determined under
25 s. 63.087(2). If any the parent or parents whose consent is
26 required objects ~~rights are to be terminated object~~ to venue
27 in the county where the action was filed, the court may
28 transfer venue to a proper venue consistent with this chapter
29 and chapter 47 ~~the action to the county where the objecting~~
30 ~~parent or parents reside,~~ unless the objecting parent has
31 previously executed a waiver of venue.

1 Section 9. Subsection (3) of section 63.064, Florida
2 Statutes, is amended to read:

3 63.064 Persons whose consent to an adoption may be
4 waived.--The court may waive the consent of the following
5 individuals to an adoption:

6 (3) A parent who has been judicially declared
7 incompetent and for whom restoration of competency is
8 medically improbable within a reasonable period of time. The
9 court shall consider the best interests of the child in making
10 this determination.

11 Section 10. Paragraph (c) of subsection (1),
12 paragraphs (b), (c), and (e) of subsection (4), and
13 subsections (5), (6), and (7) of section 63.082, Florida
14 Statutes, are amended to read:

15 63.082 Execution of consent to adoption or affidavit
16 of nonpaternity; family social and medical history; withdrawal
17 of consent.--

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

22 (4)

23 (b) A consent to the adoption of a minor who is to be
24 placed for adoption shall not be executed by the birth mother
25 sooner than 48 hours after the minor's birth or the day the
26 birth mother has been notified in writing, either on her
27 patient chart or in release paperwork, that she is fit to be
28 released from the licensed hospital or birth center, whichever
29 is earlier. A consent by any man ~~a biological father or legal~~
30 ~~father~~ may be executed at any time after the birth of the
31 child. A consent executed under this paragraph is valid upon

1 execution and may be withdrawn only if the court finds that it
2 was obtained by fraud or duress.

3 (c) When the minor to be adopted is older than 6
4 months of age at the time of the execution of the consent, the
5 consent to adoption is valid upon execution; however, it is
6 subject to a 3-day revocation period ~~or may be revoked at any~~
7 ~~time prior to the placement of the minor with the prospective~~
8 ~~adoptive parents, whichever is later.~~ If a consent has been
9 executed, this subsection may not be construed to provide a
10 birth parent with more than 3 days to revoke the consent once
11 the child has been placed with the prospective adoptive
12 parents.

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

16
17 CONSENT TO ADOPTION

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

28
29 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
30 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
31 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

1
2 1. CONSULT WITH AN ATTORNEY;
3 2. HOLD, CARE FOR, AND FEED THE CHILD
4 UNLESS OTHERWISE LEGALLY PROHIBITED;
5 3. PLACE THE CHILD IN FOSTER CARE OR WITH
6 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
7 WILLING TO CARE FOR THE CHILD;
8 4. TAKE THE CHILD HOME UNLESS OTHERWISE
9 LEGALLY PROHIBITED; AND
10 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
11 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
12 THROUGH WITH THE ADOPTION.
13
14 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
15 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS
16 VALID, BINDING, AND IRREVOCABLE EXCEPT UNDER
17 SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING
18 UP YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE
19 IMMEDIATELY PLACED FOR ADOPTION UPON THE
20 CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
21 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD
22 WILL BE IMPOSED UPON THE BIRTH MOTHER BEFORE
23 SHE MAY SIGN THE CONSENT FOR ADOPTION. A BIRTH
24 MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
25 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS
26 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT
27 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO
28 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
29 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT
30 FOR ADOPTION MAY BE EXECUTED. ANY MAN ~~A~~
31 ~~BIOLOGICAL FATHER~~ MAY EXECUTE A CONSENT AT ANY

1 TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU
2 HAVE SIGNED THE CONSENT, IT IS VALID, BINDING,
3 AND IRREVOCABLE AND CANNOT BE WITHDRAWN UNLESS
4 A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
5 DURESS.

6
7 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED
8 BY FRAUD OR DURESS AND YOU WISH TO REVOKE THAT
9 CONSENT, YOU MUST:

- 10
11 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
12 A LETTER, THAT YOU WISH TO WITHDRAW YOUR
13 CONSENT; AND
14 2. PROVE IN COURT THAT THE CONSENT WAS
15 OBTAINED BY FRAUD OR DURESS.

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

23 (5) A copy or duplicate original of each consent
24 signed under this chapter ~~in an action for termination of~~
25 ~~parental rights pending adoption~~ must be provided to the
26 person who executed the consent to adoption. The copy must be
27 hand delivered, with a written acknowledgment of receipt
28 signed by the person whose consent is required at the time of
29 execution. If a copy of a consent cannot be provided as
30 required in this subsection, the adoption entity must execute
31 an affidavit stating why the copy of the consent was not

1 delivered. The original consent and acknowledgment of receipt,
2 or an affidavit stating why the copy of the consent was not
3 delivered, must be filed with the petition for termination of
4 parental rights pending adoption.

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

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

24 (c) Upon a determination by the court that the
25 prospective adoptive parents have met the requirements of this
26 chapter ~~are properly qualified~~ to adopt the minor child and
27 that the adoption appears to be in the best interest of the
28 minor child, the court shall immediately order the transfer of
29 custody of the minor child to the prospective adoptive
30 parents, under the supervision of the adoption entity.
31 Thereafter, the adoption entity must file a petition for

1 termination of parental rights or a petition for adoption in
2 the court having jurisdiction over child welfare or custody in
3 the county with the appropriate venue according to s. 63.087
4 or s. 63.102. The court having jurisdiction over the minor in
5 the dependency proceeding must relinquish its jurisdiction to
6 the court where the petition for termination of parental
7 rights or the petition for adoption is filed. The adoption
8 entity shall thereafter provide monthly supervision reports to
9 the court, if required, ~~department~~ until finalization of the
10 adoption.

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

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

29 (b) Upon receiving timely written notice from a person
30 whose consent to adoption is required, of that person's desire
31 to withdraw consent to adoption, the adoption entity must

1 | contact the prospective adoptive parent to arrange a time
2 | certain for the adoption entity to regain physical custody of
3 | the minor, unless, upon a motion for emergency hearing by the
4 | adoption entity, the court determines in written findings that
5 | placement of the minor with the person who had legal or
6 | physical custody of the child immediately before placing the
7 | child for adoption may not be in the minor's best interest
8 | ~~withdrawing consent may endanger the minor~~, or that the person
9 | who desires to withdraw consent to the adoption would not be
10 | required to consent to the adoption or has been determined to
11 | have abandoned the child, or may otherwise be subject to the
12 | consent being waived under this chapter.

13 | (c) If the court finds that ~~the~~ such placement may
14 | endanger the minor, the court must enter an order regarding
15 | continued placement of the minor. The order shall direct
16 | continued placement with the prospective adoptive parents
17 | pending further proceedings if they desire continued
18 | placement. If the prospective adoptive parents do not desire
19 | continued placement, the order shall include, but not be
20 | limited to, whether temporary placement in foster care, with
21 | the person who had legal or physical custody of the child
22 | immediately before placing the child for adoption, or with a
23 | relative is in the best interest of the child and is
24 | ~~appropriate~~, whether an investigation by the department is
25 | recommended, ~~and whether a relative is available for the~~
26 | ~~temporary placement.~~

27 | (d) If the person withdrawing a required consent
28 | claims to be the father of the minor but has not been
29 | established to be the father by marriage, court order, or
30 | scientific testing, the court may order scientific paternity
31 | testing upon a showing that the testing is in the best

1 ~~interests of the minor and reserve ruling on removal of the~~
2 ~~minor until the results of such testing have been filed with~~
3 ~~the court.~~

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

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

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

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

27 63.085 Disclosure by adoption entity.--

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

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

14 |
15 | ADOPTION DISCLOSURE
16 |

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

22 |
 23 | 1. The name, address, and telephone
 24 | number of the adoption entity providing this
 25 | disclosure is:

26 | Name:.....

27 | Address:.....

28 | Telephone Number:.....

29 |
 30 | 2. The adoption entity does not provide
 31 | legal representation or advice to birth

1 parents, and birth parents have the right to
2 consult with an attorney of their own choosing
3 to advise them.

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

10 4. A valid consent for adoption may not
11 be signed by the birth mother until 48 hours
12 after the birth of the child, or the day the
13 birth mother is notified, in writing, that she
14 is fit for discharge from the licensed hospital
15 or birth center. Any man ~~A putative father~~ may
16 sign a valid consent for adoption at any time
17 after the birth of the child.

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

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

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

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

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

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

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

28 Section 12. Section 63.087, Florida Statutes, is
29 amended to read:

30 63.087 Proceeding to terminate parental rights pending
31 adoption; general provisions.--

1 (1) JURISDICTION.--A court of this state which is
2 competent to decide child welfare or custody matters has
3 jurisdiction to hear all matters arising from a proceeding to
4 terminate parental rights pending adoption. A court of this
5 state has jurisdiction if the minor is present in this state
6 and the parent or guardian has been served with a copy of the
7 petition in accordance with subsection (5).

8 (2) VENUE.--

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

- 11 1. In the county where the child resides; or
12 2. ~~If the child does not reside in the State of~~
13 ~~Florida,~~ In the county where the adoption entity is located; +
14 3. ~~In the county where the adoption entity is located;~~
15 ~~or~~
16 4. ~~If neither parent resides in the state, in the~~
17 ~~county where the adoption entity is located. The fact of the~~
18 ~~minor's presence within the state confers jurisdiction on the~~
19 ~~court in proceedings in the minor's case under this chapter,~~
20 ~~or to a parent or guardian if due notice has been given.~~

21 (b) If a petition for termination of parental rights
22 has been filed and a parent whose consent is required ~~rights~~
23 ~~are to be terminated~~ objects to venue, there must be a hearing
24 in which the court shall determine whether that parent intends
25 to assert legally recognized grounds to contest a termination
26 of parental rights and, if so, the court may ~~shall immediately~~
27 transfer venue to a proper venue under this subsection ~~the~~
28 ~~county where that parent resides or resided at the time of the~~
29 ~~execution of the consent.~~ For purposes of selecting venue, the
30 court shall consider the ease of access to the court for the
31

1 | ~~parent and the factors set forth in s. 47.122 who intends to~~
2 | ~~contest a termination of parental rights.~~

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

5 |
6 | For purposes of the hearing under this subsection, witnesses
7 | located in another jurisdiction may testify by deposition or
8 | testify by telephone, audiovisual means, or other electronic
9 | means before a designated court or at another location.
10 | Documentary evidence transmitted from another location by
11 | technological means that do not produce an original writing
12 | may not be excluded from evidence on an objection based on the
13 | means of transmission. The court on its own motion may
14 | otherwise prescribe the manner in which and the terms upon
15 | which the testimony is taken.

16 | (3) PREREQUISITE FOR ADOPTION.--A petition for
17 | adoption may not be filed until after the date the court
18 | enters the judgment terminating parental rights pending
19 | adoption ~~under this chapter or under chapter 39~~. Adoptions of
20 | relatives, adult adoptions, or adoptions of stepchildren shall
21 | not be required to file a separate termination of parental
22 | rights proceeding pending adoption. In such cases, the
23 | petitioner may file a joint petition for termination of
24 | parental rights and adoption attaching all required consents,
25 | affidavits, notices, and acknowledgments ~~shall be attached to~~
26 | ~~the petition for adoption or filed separately in the adoption~~
27 | ~~proceeding~~. Unless otherwise provided by law, this chapter
28 | applies to joint petitions.

29 | (4) PETITION.--

30 | (a) A proceeding seeking to terminate parental rights
31 | pending adoption ~~under pursuant to~~ this chapter must be

1 initiated by the filing of an original petition after the
2 birth of the minor.

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

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

13 (d) The petition to terminate parental rights pending
14 adoption must be in writing and signed by the petitioner under
15 oath stating the petitioner's good faith in filing the
16 petition. A written consent to adoption, affidavit of
17 nonpaternity, or affidavit of diligent search under s. 63.088,
18 for each person whose consent to adoption is required under s.
19 63.062, must be executed and attached.

20 (e) The petition must include:

21 1. The minor's name, gender, date of birth, and place
22 of birth. The petition must contain all names by which the
23 minor is or has been known, excluding the minor's prospective
24 adoptive name but including the minor's legal name at the time
25 of the filing of the petition. In the case of an infant child
26 whose adoptive name appears on the original birth certificate,
27 the adoptive name shall not be included in the petition, nor
28 shall it be included elsewhere in the termination of parental
29 rights proceeding unless the proceedings are filed according
30 to s. 63.102(6).

31

1 2. All information required by the Uniform Child
2 Custody Jurisdiction and Enforcement Act and the Indian Child
3 Welfare Act, except the names and addresses of the adoptive
4 parents.

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

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

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

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

15 (5) SUMMONS TO BE ISSUED.--The petitioner shall cause
16 a summons to be issued substantially in the form provided in
17 Form 1.902, Florida Rules of Civil Procedure. The Petition and
18 summons and a copy of the petition shall be served upon any
19 person who executed a whose consent to adoption or affidavit
20 of nonpaternity has been provided but who has not waived
21 service of the pleadings and notice of the hearing thereon and
22 also upon any person whose consent to adoption is required
23 under s. 63.062, but who has not provided that consent or an
24 affidavit of nonpaternity.

25 (6) ANSWER AND APPEARANCE REQUIRED.--An answer to the
26 petition or any pleading requiring an answer shall be timely
27 filed in accordance with the Florida Rules of Civil Procedure.
28 Failure to file a written response or to appear at the hearing
29 on the petition constitutes grounds upon which the court may
30 terminate parental rights. Failure to appear at the hearing
31 constitutes grounds upon which the court may terminate

1 ~~parental rights. The petitioner shall provide notice of the~~
2 ~~final hearing by United States mail to any person who has been~~
3 ~~served with the summons and petition for termination of~~
4 ~~parental rights within the specified time periods.~~

5 ~~Notwithstanding the filing of any answer or any pleading,~~ Any
6 person present at the hearing to terminate parental rights
7 pending adoption whose consent to adoption is required under
8 s. 63.062 must:

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

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

14 Section 13. Section 63.088, Florida Statutes, is
15 amended to read:

16 63.088 Proceeding to terminate parental rights pending
17 adoption; notice and service; diligent search.--

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

26 (2) IDENTITY KNOWN AND LOCATION UNKNOWN; PROCEDURES TO
27 INITIATE LOCATION PROCEDURES.--When the location of a person
28 whose consent to an adoption is required but is unknown ~~not~~
29 ~~known~~, the adoption entity must begin the inquiry and diligent
30 search process required by this section within a reasonable
31 time period after the date on which the person seeking to

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

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

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

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

1 has set aside ...(amount of time)... for this
2 hearing.

3
4 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
5 TO TIMELY FILE A WRITTEN RESPONSE TO THE
6 PETITION AND THIS NOTICE WITH THE COURT AND ~~OR~~
7 TO APPEAR AT THIS HEARING CONSTITUTES GROUNDS
8 UPON WHICH THE COURT SHALL END ANY PARENTAL
9 RIGHTS YOU MAY HAVE OR ASSERT REGARDING THE
10 MINOR CHILD.

11
12 (4) REQUIRED INQUIRY.--In proceedings initiated under
13 s. 63.087, the court must conduct an inquiry of the person who
14 is placing the minor for adoption and of any relative or
15 person having legal custody of the minor who is present at the
16 hearing and likely to have the following information regarding
17 the identity of the father of the minor, whether his parental
18 rights have not been previously terminated, and whether:

19 (a) The minor was conceived or born while the father
20 was married to the mother;

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

23 (c) The minor has been established by court proceeding
24 to be his child before the filing of a petition for
25 termination of parental rights, and has complied with the
26 requirements of s. 63.062(2);

27 (d) He has filed an affidavit of paternity under s.
28 382.013(2), before the filing of a petition for termination of
29 parental rights, and has complied with the requirements of s.
30 63.062(2); or

31

1 (e) In the case of an unmarried biological father, he
2 has acknowledged in writing, signed in the presence of a
3 competent witness, that he is the father of the minor, has
4 filed the acknowledgment with the Office of Vital Statistics
5 of the Department of Health within the required timeframes,
6 and has complied with the requirements of s. 63.062(2).

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

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

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

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

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

17

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

26 (5) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry
27 by the court under subsection (4) identifies any person whose
28 consent to adoption is required under s. 63.062 and who has
29 not executed a consent to adoption or an affidavit of
30 nonpaternity, and the location of the person from whom consent
31 is required is unknown, the adoption entity must conduct a

1 diligent search for that person which must include inquiries
2 concerning:

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (n) Search of one Internet databank locator service.
4

5 Any person contacted by a petitioner or adoption entity when
6 requesting information under this subsection must release the
7 requested information to the petitioner or adoption entity,
8 except when prohibited by law, without the necessity of a
9 subpoena or a court order. An affidavit of diligent search
10 ~~executed by the petitioner and the adoption entity~~ must be
11 filed with the court ~~confirming completion of each aspect of~~
12 ~~the diligent search enumerated in this subsection and~~
13 ~~specifying the results.~~ The diligent search required under
14 this subsection may be conducted before the birth of the
15 minor.

16 (6) CONSTRUCTIVE SERVICE.--This subsection only
17 applies if, as to any person whose consent is required under
18 s. 63.062 and who has not executed a consent to adoption or an
19 affidavit of nonpaternity, the location of the person is
20 unknown and the inquiry under subsection (4) fails to locate
21 the person. The unlocated person must be served notice under
22 subsection (3) by constructive service in the manner provided
23 in chapter 49. The notice shall be published in the county
24 where the person was last known to have resided. The notice,
25 in addition to all information required under chapter 49, must
26 include a physical description, including, but not limited to,
27 age, race, hair and eye color, and approximate height and
28 weight of the person, the minor's date of birth, and the place
29 of birth of the minor. Constructive service by publication
30 shall not be required to provide notice to an identified birth
31

1 | father whose consent is not required under ~~pursuant to~~ ss.
2 | 63.062 and 63.064.

3 | Section 14. Section 63.089, Florida Statutes, is
4 | amended to read:

5 | 63.089 Proceeding to terminate parental rights pending
6 | adoption; hearing; grounds; dismissal of petition; judgment.--

7 | (1) HEARING.--The court may terminate parental rights
8 | pending adoption only after a hearing.

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

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

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

15 | 2. An affidavit of nonpaternity under s. 63.082 has
16 | been executed and filed with the court;

17 | 3. Notice has been provided under ss. 63.087 and
18 | 63.088; or

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

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

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

31 |

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

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

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

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

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

18 (a) Has executed a valid consent under s. 63.082 and
19 the consent was obtained according to the requirements of this
20 chapter;

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

24 (c) Has been served with a notice of the intended
25 adoption plan in accordance with the provisions of s.
26 63.062(3) and has failed to respond within the designated time
27 period;

28 (d) Has been properly served notice of the proceeding
29 in accordance with the requirements of this chapter and has
30 failed to file a written answer and ~~or~~ appear at the
31

1 | evidentiary hearing resulting in the judgment terminating
2 | parental rights pending adoption;

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

7 | (f) Is a parent of the person to be adopted, which
8 | parent has been judicially declared incapacitated and for whom
9 | ~~with~~ restoration of competency to a degree that would enable
10 | the parent to fulfill parental responsibilities by providing
11 | for the physical and emotional needs of the minor child is
12 | found to be medically improbable within a reasonable period of
13 | time;

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

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

25 | (i) Is the spouse of the person to be adopted who has
26 | failed to consent, and the failure of the spouse to consent to
27 | the adoption is excused by reason of prolonged and unexplained
28 | absence, unavailability, incapacity, or circumstances that are
29 | found by the court to constitute unreasonable withholding of
30 | consent.
31 |

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

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

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

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

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

28 4. Whether the amount of support provided or medical
29 expenses paid was appropriate, taking into consideration the
30 needs of the child and relative means and resources available
31 to the person alleged to have abandoned the child.

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

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

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

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

30 (5) DISMISSAL OF PETITION.--If the court does not find
31 by clear and convincing evidence that parental rights of a

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

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

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

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

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

30 (a) A motion for relief from a judgment terminating
31 parental rights must be filed with the court originally

1 entering the judgment. The motion must be filed within a
2 reasonable time, but not later than 1 year after the entry of
3 the judgment terminating parental rights.

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

15 (c) At the preliminary hearing, the court, upon the
16 motion of any party or upon its own motion, may order
17 scientific testing to determine the paternity of the minor if
18 the person seeking to set aside the judgment is a person whose
19 consent is required ~~alleging to be the child's father~~ and that
20 fact has not previously been determined by legitimacy or
21 scientific testing and the testing is in the child's best
22 interest. The court may order visitation with a person for
23 whom scientific testing for paternity has been ordered and who
24 has previously established a bonded relationship with the
25 child.

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

31

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

8 Section 15. Section 63.092, Florida Statutes, is
9 amended to read:

10 63.092 Report to the court of intended placement by an
11 adoption entity; at-risk placement; preliminary study.--

12 (1) REPORT TO THE COURT.--The adoption entity must
13 report any intended placement of a minor for adoption with any
14 person who is not a relative or a stepparent if the adoption
15 entity ~~has knowledge of, or participates in,~~ the such intended
16 placement. The report must be made to the court before the
17 minor is placed in the home or within 48 hours thereafter.
18 Failure to file the report of intended placement within 48
19 hours does not constitute grounds to deny the petition for
20 termination of parental rights or adoption if the report is
21 subsequently filed and no party is prejudiced by the failure
22 to file the report in a timely manner.

23 (2) AT-RISK PLACEMENT.--If the minor is placed in the
24 prospective adoptive home before the parental rights of the
25 minor's parents are terminated under s. 63.089, the placement
26 is an at-risk placement. If the placement is an at-risk
27 placement, the prospective adoptive parents must acknowledge
28 in writing before the minor may be placed in the prospective
29 adoptive home that the placement is at risk. The prospective
30 adoptive parents shall be advised by the adoption entity, in
31 writing, that the minor is subject to removal from the

1 prospective adoptive home by the adoption entity or by court
2 order at any time before ~~prior to~~ the finalization of the
3 adoption.

4 (3) PRELIMINARY HOME STUDY.--Before placing the minor
5 in the intended adoptive home, a preliminary home study must
6 be performed by a licensed child-placing agency, a
7 child-caring agency registered under s. 409.176, a licensed
8 psychologist, clinical social worker, marriage and family
9 therapist, or mental health counselor qualified and licensed
10 to perform a home study in the state or country where the
11 adoptive parent resides, ~~professional, or agency described in~~
12 ~~s. 61.20(2)~~, unless the adoptee is an adult or the petitioner
13 is a stepparent or a relative. If the adoptee is an adult or
14 the petitioner is a stepparent or a relative, a preliminary
15 home study may be required by the court for good cause shown
16 to assist in determining whether the adoption is in the best
17 interest of the adoptee and is in accordance with state law.

18 The department is required to perform the preliminary home
19 study only if there is no licensed child-placing agency,
20 child-caring agency registered under s. 409.176, licensed
21 professional, or agency described in s. 61.20(2), in the
22 county where the prospective adoptive parents reside. The
23 preliminary home study must be made to determine the
24 suitability of the intended adoptive parents and may be
25 completed before ~~prior to~~ identification of a prospective
26 adoptive minor. A favorable preliminary home study is valid
27 for 1 year after the date of its completion. Upon its
28 completion, a copy of the home study must be provided to the
29 intended adoptive parents who were the subject of the home
30 study. Unless a court approves, a minor may not be placed in
31 an intended adoptive home before a favorable preliminary home

1 study is completed unless the adoptive home is also a licensed
2 foster home under s. 409.175 or the placement is approved by
3 the court. The preliminary home study must include, at a
4 minimum:

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

6 (b) Records checks of the department's central abuse
7 registry and criminal records correspondence checks under
8 ~~pursuant to~~ s. 435.045 through the Department of Law

9 Enforcement on the intended adoptive parents;

10 (c) An assessment of the physical environment of the
11 home;

12 (d) A determination of the financial security of the
13 intended adoptive parents;

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

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

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

22 (h) A copy of each prospective adoptive parent's
23 signed acknowledgment of receipt of disclosure required by s.
24 63.085.

25
26 If the preliminary home study is favorable, a minor may be
27 placed in the home pending entry of the judgment of adoption.
28 A minor may not be placed in the home if the preliminary home
29 study is unfavorable. If the preliminary home study is
30 unfavorable, the adoption entity may, within 20 days after
31 receipt of a copy of the written recommendation, petition the

1 court to determine the suitability of the intended adoptive
2 home. A determination as to suitability under this subsection
3 does not act as a presumption of suitability at the final
4 hearing. In determining the suitability of the intended
5 adoptive home, the court must consider the totality of the
6 circumstances in the home. No minor may be placed in a home in
7 which there resides any person determined by the court to be a
8 sexual predator as defined in s. 775.21 or to have been
9 convicted of an offense listed in s. 63.089(4)(b)2.

10 Section 16. Subsection (1), paragraphs (b) and (f) of
11 subsection (2), subsection (3), and paragraph (c) of
12 subsection (5) of section 63.097, Florida Statutes, are
13 amended to read:

14 63.097 Fees.--

15 (1) When the adoption entity is an agency, fees may be
16 assessed if they are approved by the department within the
17 process of licensing the agency ~~and if they are for:~~

18 ~~(a) Foster care expenses;~~

19 ~~(b) Preplacement and postplacement social services;~~

20 ~~and~~

21 ~~(c) Agency facility and administrative costs.~~

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

25 (b) Reasonable and necessary medical expenses. These
26 ~~Such~~ expenses may be paid during the pregnancy and for a
27 period of up to 6 weeks postpartum. A court may approve
28 payment of medical expenses incurred beyond 6 weeks if it
29 finds that extraordinary circumstances justify the payment.

30 (f) The following professional fees:
31

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

5 2. A reasonable hourly fee or flat fee for contact
6 with the parent related to the adoption. In determining a
7 reasonable hourly fee under this subparagraph, the court must
8 consider if the tasks done were clerical or of such a nature
9 that the matter could have been handled by support staff at a
10 lesser rate than the rate for legal representation charged
11 under subparagraph 1. Such tasks include, but need not be
12 limited to, transportation, transmitting funds, arranging
13 appointments, and securing accommodations.

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

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

24 (a) \$5,000 in legal, per law firm, ~~or other~~ fees;

25 (b) \$800 in court costs; or

26 (c) \$5,000 in reasonable and necessary living ~~and~~
27 ~~medical~~ expenses.

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

30 (c) Any fee on the affidavit which does not specify
31 the service that was provided and for which the fee is being

1 | charged, such as a fee for facilitation, acquisition, or other
2 | similar service, or an hourly rate which does not identify the
3 | date the service was provided, the time required to provide
4 | the service, the person or entity providing the service, and
5 | the hourly fee charged.

6 | Section 17. Section 63.102, Florida Statutes, is
7 | amended to read:

8 | 63.102 Filing of petition for adoption or declaratory
9 | statement; venue; proceeding for approval of fees and costs.--

10 | (1) PETITION FOR ADOPTION.--A petition for adoption
11 | may not be filed until after the entry of the judgment or
12 | decree terminating parental rights ~~pending adoption under this~~
13 | ~~chapter~~, unless the adoptee is an adult, or the petitioner is
14 | a stepparent or a relative, ~~or the minor has been the subject~~
15 | ~~of a judgment terminating parental rights under chapter 39.~~

16 | After a judgment terminating parental rights has been entered,
17 | a proceeding for adoption may be commenced by filing a
18 | petition entitled, "In the Matter of the Adoption of" in
19 | the circuit court. The person to be adopted shall be
20 | designated in the caption in the name by which he or she is to
21 | be known if the petition is granted. At the request of a
22 | party, the ~~Any~~ name by which the minor was previously known
23 | may not be disclosed in the petition, the notice of hearing
24 | according to s. 63.122(3), or the judgment of adoption, or
25 | court docket according to s. 63.162(3).

26 | (2) VENUE.--A petition for adoption or for a
27 | declaratory statement as to the adoption contract may shall be
28 | filed in the county where the petition for termination of
29 | parental rights was granted, or in ~~unless the court, in~~
30 | ~~accordance with s. 47.122, changes the venue to the county~~
31 | where the petitioner or petitioners or the minor resides or

1 | where the adoption entity ~~with which the minor has been placed~~
2 | is located. The circuit court in this state ~~may~~ must retain
3 | jurisdiction over the matter until a final judgment is entered
4 | on the adoption. The Uniform Child Custody Jurisdiction and
5 | Enforcement Act does not apply until a final judgment is
6 | entered on the adoption.

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

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

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

26 | (a) The petition must be filed by the adoption entity
27 | with the consent of the parties to the agreement.

28 | (b) A contract for the payment of fees, costs, and
29 | expenses permitted under this chapter must be in writing, and
30 | any person who enters into the contract has 3 business days in
31 | which to cancel the contract unless placement of the child has

1 | occurred. To cancel the contract, the person must notify the
2 | adoption entity in writing by certified United States mail,
3 | return receipt requested, no later than 3 business days after
4 | signing the contract. For the purposes of this subsection, the
5 | term "business day" means a day on which the United States
6 | Postal Service accepts certified mail for delivery. If the
7 | contract is canceled within the first 3 business days, the
8 | person who cancels the contract does not owe any legal,
9 | intermediary, or other fees, but may be responsible for the
10 | adoption entity's actual costs during that time.

11 | (c) The court may grant approval only of fees and
12 | expenses permitted under s. 63.097. A prior approval of
13 | prospective fees and costs creates ~~shall create~~ a presumption
14 | that these items will subsequently be approved by the court
15 | under s. 63.132. The court, under s. 63.132, may order an
16 | adoption entity to refund any amounts paid under this
17 | subsection that are subsequently found by the court to be
18 | greater than fees, costs, and expenses actually incurred.

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

22 | (e) A declaratory statement as to the adoption
23 | contract, regardless of when filed, shall be consolidated with
24 | any related petition for adoption. The clerk of the court
25 | shall only assess one filing fee that includes the adoption
26 | action, the declaratory statement petition, and the petition
27 | for termination of parental rights.

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

31 |

1 (6) STEPCCHILD, RELATIVE, AND ADULT
2 ADOPTIONS.--Petitions for the adoption of a stepchild, a
3 relative, or an adult ~~may shall~~ not require the filing of a
4 separate judgment or separate proceeding terminating parental
5 rights pending adoption. The final judgment of adoption has
6 ~~shall have~~ the effect of terminating parental rights
7 simultaneously with the granting of the decree of adoption.

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

10 63.112 Petition for adoption; description; report or
11 recommendation, exceptions; mailing.--

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

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

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

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

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

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

1 63.122 Notice of hearing on petition.--

2 (3) Upon a showing by the petitioner that the privacy,
3 safety, or ~~and~~ welfare of the petitioner or minor may be
4 endangered, the court may order the names, addresses, or other
5 identifying information of the petitioner, parent, or minor,
6 or all both, to be deleted from the notice of hearing and from
7 the copy of the petition attached thereto, provided the
8 substantive rights of any person will not thereby be affected.

9 ~~(5) After filing the petition to adopt an adult, the~~
10 ~~court may order an appropriate investigation to assist in~~
11 ~~determining whether the adoption is in the best interest of~~
12 ~~the persons involved and is in accordance with state law.~~

13 Section 20. Subsection (4) of section 63.125, Florida
14 Statutes, is amended to read:

15 63.125 Final home investigation.--

16 (4) The department, the licensed child-placing agency,
17 or the professional making the required investigation may
18 request other state agencies, licensed professionals qualified
19 to conduct a home study, or child-placing agencies within or
20 outside this state to make investigations of designated parts
21 of the inquiry and to make a written report to the department,
22 the professional, or other person or agency.

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

25 63.132 Affidavit of expenses and receipts.--

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

29 ~~(a) The affidavit must be signed by the adoption~~
30 ~~entity and the prospective adoptive parents. A copy of the~~

31

1 ~~affidavit must be provided to the adoptive parents at the time~~
2 ~~the affidavit is executed.~~

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

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

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

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

20 ~~(c)3.~~ The medical or hospital care received by the
21 mother or by the minor during the mother's prenatal care and
22 confinement.

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

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

30 (f) All fees charged in connection with the placement
31 of the minor.

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

5 (4) This section does not apply to an adoption by a
6 stepparent or an adoption of a relative or adult, does not
7 apply to the finalization of an adoption of a minor whose
8 parental rights were terminated under chapter 39, and does not
9 apply to the domestication of an adoption decree of a minor
10 child adopted in a foreign country.

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

13 63.135 Information under oath to be submitted to the
14 court.--

15 (1) The adoption entity or petitioner must file an
16 affidavit under the Uniform Child Custody Jurisdictional and
17 Enforcement Act in a termination of parental rights ~~Each party~~
18 ~~in an adoption~~ proceeding, in the first pleading or in an
19 affidavit attached to that pleading, ~~shall give information~~
20 ~~under oath as to the child's present address, the places where~~
21 ~~the child has lived within the last 5 years, and the names and~~
22 ~~present addresses of the persons with whom the child has lived~~
23 ~~during that period. In the pleading or affidavit each party~~
24 ~~shall further declare under oath whether:~~

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

28 (b) ~~The party has information of any custody~~
29 ~~proceeding concerning the child pending in a court of this or~~
30 ~~any other state; and~~
31

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

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

6 63.142 Hearing; judgment of adoption.--

7 (3) DISMISSAL.--

8 (a) If the petition is dismissed, further proceedings,
9 if any, regarding the minor must be brought in a separate
10 custody action under chapter 61, a dependency action under
11 chapter 39, or a paternity action under chapter 742 ~~the court~~
12 ~~shall determine the person that is to have custody of the~~
13 ~~minor.~~

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

16 (4) JUDGMENT.--At the conclusion of the hearing, after
17 the court determines that the date for a parent to file an
18 appeal of a valid judgment terminating that parent's parental
19 rights has passed and no appeal, under ~~pursuant to~~ the Florida
20 Rules of Appellate Procedure, is pending and that the adoption
21 is in the best interest of the person to be adopted, a
22 judgment of adoption shall be entered. A judgment terminating
23 parental rights pending adoption is voidable and any later
24 judgment of adoption of that minor is voidable if, upon a
25 parent's motion for relief from judgment, the court finds that
26 the adoption fails to substantially meet the requirements of
27 this chapter. The motion must be filed within a reasonable
28 time, but not later than 1 year after the date the judgment
29 terminating parental rights was entered.

30 Section 24. Section 63.152, Florida Statutes, is
31 amended to read:

1 63.152 Application for new birth record.--Within 30
2 days after entry of a judgment of adoption, the clerk of the
3 court shall transmit a certified statement of the entry to the
4 state registrar of vital statistics in the state where the
5 adoptee was born on a form provided by the Florida registrar.

6 A new birth record containing the necessary information
7 supplied by the certificate shall be issued by the registrar
8 on application of the adopting parents or the adopted person.

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

12 63.162 Hearings and records in adoption proceedings;
13 confidential nature.--

14 (1) All hearings held in proceedings under this
15 chapter act shall be held in closed court without admittance
16 of any person other than essential officers of the court, the
17 parties, witnesses, counsel, persons who have not consented to
18 the adoption and are required to consent, and representatives
19 of the agencies who are present to perform their official
20 duties.

21 (3) The court files, records, and papers in the
22 adoption of a minor shall be indexed only in the name of the
23 petitioner, and the name of the petitioner and the minor may
24 ~~shall~~ not be noted on any docket, index, or other record
25 outside the court file, except that closed agency files may be
26 cross-referenced in the original and adoptive names of the
27 minor. The index is not subject to the public-records law and
28 is not open to public inspection.

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

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

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

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

12 (d) Upon order of the court for good cause shown. In
13 determining whether good cause exists, the court shall give
14 primary consideration to the best interests of the adoptee,
15 but must also give due consideration to the interests of the
16 adoptive and birth parents. Factors to be considered in
17 determining whether good cause exists include, but are not
18 limited to:

19 1. The reason the information is sought;

20 2. The existence of means available to obtain the
21 desired information without disclosing the identity of the
22 birth parents, such as by having the court, a person appointed
23 by the court, the department, or the licensed child-placing
24 agency contact the birth parents and request specific
25 information;

26 3. The desires, to the extent known, of the adoptee,
27 the adoptive parents, and the birth parents;

28 4. The age, maturity, judgment, and expressed needs of
29 the adoptee; and

30 5. The recommendation of the department, licensed
31 child-placing agency, or professional which prepared the

1 preliminary study and home investigation, or the department if
2 no such study was prepared, concerning the advisability of
3 disclosure.

4 (7) The court may, upon petition of an adult adoptee,
5 for good cause shown, appoint an intermediary or a licensed
6 child-placing agency to contact a birth parent ~~to who has not~~
7 ~~registered with the adoption registry pursuant to s. 63.165~~
8 ~~and~~ advise him or her ~~them~~ of the adoptee's request to open
9 the file or the adoption registry, and offer him or her the
10 opportunity to waive their confidentiality and consent to the
11 opening of their records ~~availability of same.~~

12 (8) As a result of any proceeding under s. 382.015,
13 this section, or any other proceeding to unseal an original
14 birth certificate, the Office of Vital Statistics may release
15 an original, sealed birth certificate only to the department.
16 The department must make a written request for the birth
17 certificate from the Office of Vital Statistics within 10 days
18 after the department's receipt of an order or other
19 documentation authorizing unsealing of the original birth
20 certificate. Upon receipt of the department's request, the
21 Office of Vital Statistics shall release the original sealed
22 birth certificate to the department in a manner that will
23 ensure confidentiality.

24 Section 26. Section 63.192, Florida Statutes, is
25 amended to read:

26 63.192 Recognition of foreign judgment affecting
27 adoption.--A judgment or decree granting legal guardianship
28 for purposes of adoption or ~~of court~~ terminating the
29 relationship of parent and child or establishing the
30 relationship by adoption issued under ~~pursuant to~~ due process
31 of law by a court or authorized body of any other jurisdiction

1 within or without the United States shall be recognized in
2 this state, and the rights and obligations of the parties ~~on~~
3 ~~matters within the jurisdiction of this state~~ shall be
4 determined as though the judgment were issued by a court of
5 this state. A judgment or decree of a court or authorized body
6 terminating the relationship of a parent and child, whether
7 independent, incorporated in an adoption decree, or
8 incorporated in a legal guardianship order issued pursuant to
9 due process of law of any other jurisdiction within or without
10 the United States, shall be deemed to effectively terminate
11 parental rights for purposes of proceeding on a petition for
12 adoption in this state. When a minor child has been made
13 available for adoption in a foreign state or foreign country
14 and the parental rights of the minor child's parent have been
15 terminated, or the child has been declared to be abandoned or
16 orphaned, no additional termination of parental rights
17 proceeding need occur, and the adoption may be finalized
18 according to the procedures set forth in this chapter.

19 Section 27. Section 63.207, Florida Statutes, is
20 amended to read:

21 63.207 Out-of-state placement.--

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

29 (a) Take or send a minor out of the state for the
30 purpose of placement for adoption; or
31

1 (b) Place or attempt to place a minor for the purpose
2 of adoption with a family who primarily lives and works
3 outside Florida in another state. If an adoption entity is
4 acting under this subsection, the adoption entity must file a
5 petition for declaratory statement under ~~pursuant to~~ s. 63.102
6 for ~~prior~~ approval of fees and costs. The court shall review
7 the costs under ~~pursuant to~~ s. 63.097. The petition for
8 declaratory statement ~~may~~ must be consolidated with ~~converted~~
9 ~~to~~ a petition for an adoption upon placement of the minor in
10 the home. When a minor is placed for adoption with prospective
11 adoptive parents who primarily live and work outside this
12 state, the circuit court in this state may retain jurisdiction
13 over the matter until the adoption becomes final. The
14 prospective adoptive parents may finalize the adoption in this
15 state or their home state.

16 (2) An adoption entity may not counsel a birth mother
17 to leave the state for the purpose of giving birth to a child
18 outside the state in order to secure a fee in excess of that
19 permitted under s. 63.097 when it is the intention that the
20 child is to be placed for adoption outside the state.

21 (3) When applicable, the Interstate Compact on the
22 Placement of Children authorized in s. 409.401 shall be used
23 in placing children outside the state for adoption, unless
24 excused by the court for good cause shown.

25 Section 28. Paragraphs (b), (c), and (f) of subsection
26 (1) and subsections (2) and (7) of section 63.212, Florida
27 Statutes, are amended to read:

28 63.212 Prohibited acts; penalties for violation.--

29 (1) It is unlawful for any person:

30 (b) Except an adoption entity, to place or attempt to
31 place within the state a minor for adoption unless the minor

1 is placed with a relative or with a stepparent. This
2 prohibition, however, does not apply to a person who is
3 placing or attempting to place a minor for the purpose of
4 adoption with the adoption entity or the prospective adoptive
5 parents.

6 (c) To sell or surrender, or to arrange for the sale
7 or surrender of, a minor to another person for money or
8 anything of value or to receive ~~a such~~ minor child for ~~a such~~
9 payment or thing of value. If a minor is being adopted by a
10 relative or by a stepparent, or is being adopted through an
11 adoption entity, this paragraph does not prohibit the person
12 who is contemplating adopting the child from paying, under ss.
13 63.097 and 63.132, the actual prenatal care and living
14 expenses of the mother of the child to be adopted, or from
15 paying, under ss. 63.097 and 63.132, the actual living and
16 medical expenses of ~~the such~~ mother under these sections ~~for a~~
17 ~~reasonable time, not to exceed 6 weeks, if medical needs~~
18 ~~require such support, after the birth of the minor.~~

19 (f) Except an adoption entity, to charge or accept any
20 fee or compensation of any nature from anyone for making a
21 referral in connection with an adoption or for providing
22 adoption services, facilitating, matching, or placement
23 services.

24 (2)(a) It is unlawful for any person under this
25 chapter to:

- 26 1. Knowingly provide false information; or
- 27 2. Knowingly withhold material information.

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

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

6
7 Any person who willfully violates any provision of this
8 subsection commits a misdemeanor of the second degree,
9 punishable as provided in s. 775.082 or s. 775.083. In
10 addition, the ~~such~~ person is liable for damages caused by the
11 ~~such~~ acts or omissions, including reasonable attorney's fees
12 and costs. Damages may be awarded through restitution in any
13 related criminal prosecution or by filing a separate civil
14 action.

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

19 Section 29. Subsection (4) and paragraph (c) of
20 subsection (6) of section 63.213, Florida Statutes, are
21 amended to read:

22 63.213 Preplanned adoption agreement.--

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

29 (6) As used in this section, the term:
30
31

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

4 Section 30. Section 63.236, Florida Statutes, is
5 created to read:

6 63.236 Petitions filed before effective date;
7 governing law.--Any petition for termination of parental
8 rights filed before the July 1, 2005, shall be governed by the
9 law in effect at the time the petition was filed.

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

13 409.166 Special needs children; subsidized adoption
14 program.--

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

16 (a) "Special needs child" means a child whose
17 permanent custody has been awarded to the department, or to a
18 licensed child-placing agency, or placed through an adoptive
19 intermediary and

20 1. Who has established significant emotional ties with
21 his or her foster parents; or

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

23 a. Eight years of age or older;

24 b. Mentally retarded;

25 c. Physically or emotionally handicapped;

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

27 e. A member of a sibling group of any age, provided
28 two or more members of a sibling group remain together for
29 purposes of adoption.

30 (3) ADMINISTRATION OF PROGRAM.--

31

1 (a) The department shall establish and administer an
2 adoption program for special needs children to be carried out
3 by the department or by contract with a licensed child-placing
4 agency or adoptive intermediary. The program shall attempt to
5 increase the number of persons seeking to adopt special needs
6 children and the number of adoption placements and shall
7 extend subsidies and services, when needed, to the adopting
8 parents of a special needs child.

9 (5) WAIVER OF ADOPTION FEES.--The adoption fees shall
10 be waived for all adoptive parents who participate in the
11 program who adopt children in the custody of the department.
12 Fees may be waived for families who adopt children in the
13 custody of licensed child-placing agencies or who adopt
14 children through intermediary-placed ~~independent~~ adoptions,
15 and who receive or may be eligible for subsidies through the
16 department. Retroactive reimbursement of fees may not be
17 required for families who adopt children in the custody of
18 licensed child-placing agencies.

19 Section 32. Paragraph (b) of subsection (5), paragraph
20 (b) of subsection (10), paragraph (b) of subsection (11), and
21 subsection (14) of section 409.176, Florida Statutes, are
22 amended to read:

23 409.176 Registration of residential child-caring
24 agencies and family foster homes.--

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

27 (b) Is certified by a Florida statewide child care
28 organization which was in existence on January 1, 1984, and
29 which publishes, and requires compliance with, its standards
30 and files copies thereof with the department. These ~~Such~~
31 standards shall be in substantial compliance with published

1 minimum standards that similar licensed child-caring agencies,
2 licensed child-placing agencies, or family foster homes are
3 required to meet, as determined by the department, with the
4 exception of those standards of a curricular or religious
5 nature and those relating to staffing or financial stability
6 of licensed child-caring agencies or foster homes. Once the
7 department has determined that the standards for child-caring
8 agencies, child-placing agencies, or family foster homes are
9 in substantial compliance with minimum standards that similar
10 facilities are required to meet, the standards do not have to
11 be resubmitted to the department unless a change occurs in the
12 standards. Any changes in the standards shall be provided to
13 the department within 10 days of their adoption.

14 (10)

15 (b) The qualified association shall notify the
16 department when the qualified association finds, within 30
17 days after written notification by registered mail of the
18 requirement for registration, that a person or facility
19 continues to care for children without a certificate of
20 registration. The department shall notify the appropriate
21 state attorney of the violation of law and, if necessary,
22 shall institute a civil suit to enjoin the person or facility
23 from continuing the care or placement of children.

24 (11)

25 (b) If the department determines that a person or
26 facility is caring for or placing a child without a valid
27 certificate of registration issued by the qualified
28 association or has made a willful or intentional misstatement
29 on any registration application or other document required to
30 be filed in connection with an application for a certificate
31 of registration, the qualified association, as an alternative

1 to or in conjunction with an administrative action against the
2 ~~such~~ person or facility, shall make a reasonable attempt to
3 discuss each violation with, and recommend corrective action
4 to, the person or the administrator of the facility, prior to
5 written notification thereof.

6 (14) Registration under this section, including the
7 issue of substantial compliance with published minimum
8 standards that similar licensed child-caring facilities,
9 licensed child-placing agencies, or family foster homes are
10 required to meet, as provided in paragraph (5)(b), is subject
11 to ~~the provisions of~~ chapter 120.

12 Section 33. Section 742.14, Florida Statutes, is
13 amended to read:

14 742.14 Donation of eggs, sperm, or preembryos.--The
15 donor of any egg, sperm, ~~or~~ preembryo, or embryo, other than
16 the commissioning couple or a father who has executed a
17 preplanned adoption agreement under s. 63.212, shall
18 relinquish all maternal or paternal rights and obligations
19 with respect to the donation or the resulting children
20 simultaneously upon the completion of the donation. Only
21 reasonable compensation directly related to the donation of
22 eggs, sperm, ~~and~~ preembryos, and embryos shall be permitted.

23 Section 34. Subsection (2) of section 742.15, Florida
24 Statutes, is amended to read:

25 742.15 Gestational surrogacy contract.--

26 (2) The commissioning couple shall enter into a
27 contract with a gestational surrogate only when, within
28 reasonable medical certainty as determined by a physician
29 licensed under chapter 458 or chapter 459 or a physician
30 licensed under an equivalent law in the physician's state of
31 practice:

1 (a) The commissioning mother cannot physically gestate
2 a pregnancy to term;

3 (b) The gestation will cause a risk to the physical
4 health of the commissioning mother; or

5 (c) The gestation will cause a risk to the health of
6 the fetus.

7 Section 35. Section 742.18, Florida Statutes, is
8 created to read:

9 742.18 Prohibited fees and acts.--

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

12 (a) Receive compensation in advising or assisting in
13 donor or gestational carrier arrangements.

14 (b) Advertise or offer to the public, in any way, by
15 any medium whatsoever, that a donor, carrier, or intended
16 parent is sought for or available for matching or that they
17 provide services in the arrangements.

18 (c) Publish or broadcast any advertisement except that
19 an intended parent or parents, carrier, or donor seeks a
20 donor, intended parent, or carrier for their own arrangement.

21 (d) Charge or accept any fee or compensation of any
22 nature to or from anyone for making a referral in connection
23 with a donor or carrier agreement or for facilitating such an
24 arrangement.

25 (e) Escrow funds in a donor or gestational carrier
26 arrangement.

27 (f) Assist in the commission of any act in paragraphs
28 (a)-(e).

29 (2) A fee, whether denominated as an agent, agency,
30 finder, or facilitator's fee for finding, screening, matching,
31 or facilitating a donor or gestational carrier arrangement,

1 may not be paid to or received by a person other than a
2 licensed physician, fertility clinic, or attorney.

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

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

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

15 Section 36. For the purpose of incorporating the
16 amendment made by this act to section 63.062, Florida
17 Statutes, in a reference thereto, subsection (49) of section
18 39.01, Florida Statutes, is reenacted to read:

19 39.01 Definitions.--When used in this chapter, unless
20 the context otherwise requires:

21 (49) "Parent" means a woman who gives birth to a child
22 and a man whose consent to the adoption of the child would be
23 required under s. 63.062(1). If a child has been legally
24 adopted, the term "parent" means the adoptive mother or father
25 of the child. The term does not include an individual whose
26 parental relationship to the child has been legally
27 terminated, or an alleged or prospective parent, unless the
28 parental status falls within the terms of s. 39.503(1) or s.
29 63.062(1). For purposes of this chapter only, when the phrase
30 "parent or legal custodian" is used, it refers to rights or
31 responsibilities of the parent and, only if there is no living

1 | parent with intact parental rights, to the rights or
2 | responsibilities of the legal custodian who has assumed the
3 | role of the parent.

4 | Section 37. For the purpose of incorporating the
5 | amendment made by this act to section 63.062, Florida
6 | Statutes, in a reference thereto, subsection (39) of section
7 | 984.03, Florida Statutes, is reenacted to read:

8 | 984.03 Definitions.--When used in this chapter, the
9 | term:

10 | (39) "Parent" means a woman who gives birth to a child
11 | and a man whose consent to the adoption of the child would be
12 | required under s. 63.062(1). If a child has been legally
13 | adopted, the term "parent" means the adoptive mother or father
14 | of the child. The term does not include an individual whose
15 | parental relationship to the child has been legally
16 | terminated, or an alleged or prospective parent, unless the
17 | parental status falls within the terms of either s. 39.503(1)
18 | or s. 63.062(1).

19 | Section 38. For the purpose of incorporating the
20 | amendment made by this act to section 63.062, Florida
21 | Statutes, in a reference thereto, subsection (40) of section
22 | 985.03, Florida Statutes, is reenacted to read:

23 | 985.03 Definitions.--When used in this chapter, the
24 | term:

25 | (40) "Parent" means a woman who gives birth to a child
26 | and a man whose consent to the adoption of the child would be
27 | required under s. 63.062(1). If a child has been legally
28 | adopted, the term "parent" means the adoptive mother or father
29 | of the child. The term does not include an individual whose
30 | parental relationship to the child has been legally
31 | terminated, or an alleged or prospective parent, unless the

1 parental status falls within the terms of either s. 39.503(1)
2 or s. 63.062(1).

3 Section 39. This act shall take effect July 1, 2005.
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SENATE SUMMARY

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3 Redefines terms and adds term relating to adoption.
4 Requires an adoption entity to diligently search for a
5 person whose consent is required for the adoption.
6 Provides that a judgement of adoption is voidable under
7 certain circumstances if a court finds that a person
8 whose consent is required gave false information.
9 Provides that a court in this state retains jurisdiction
10 until the adoption is finalized in this state or in
11 another state. Provides that if an unmarried biological
12 father fails to take the actions that are available to
13 him to establish a relationship with his child, his
14 parental interest may be lost entirely. Provides that if
15 a putative father fails to report a change of address to
16 the Florida Putative Father Registry, the failure is not
17 a valid defense based upon lack of notice and the
18 adoption entity or adoption petitioner is not obligated
19 to search further for the registrant. Specifies who is
20 required to consent to an adoption. Provides that an
21 adoption agency may file a notice of an intended adoption
22 plan at any time before the birth of the child or before
23 placing the child in the adoptive home. Requires an
24 adoption entity to make a good faith effort to locate the
25 putative father. Provides that a court may waive consent
26 for an adoption if the person from whom consent is
27 required has been judicially declared incompetent and for
28 whom restoration is improbable within a reasonable period
29 of time, taking into consideration the best interests of
30 the child. Limits revocation of a consent to adopt to 3
31 days if the child is older than 6 months of age.
Authorizes a court to transfer a child to the prospective
adoptive parents under certain circumstances. Provides
procedures to terminate parental rights pending an
adoption. Requires the court to conduct an inquiry
concerning the father of the child who is to be adopted.
Provides grounds to terminate parental rights. Provides
that a court may terminate the parental rights of a
person who has been judicially declared incompetent and
is not likely to fulfill his or her parental
responsibilities. Provides for fees to be paid to an
adoption entity. Provides procedures for the filing of a
petition for adoption. Requires the adoptive parent and
the adoption entity to file an affidavit itemizing all
expenses and receipts. Details the expenses and receipts
that must be in the affidavit. Requires the clerk of
court to transmit a certified statement of the adoption
to the state where the child was born. Provides that the
court index of adoption files is not a public record and
not open to public inspection. Authorizes the birth
parent to release his or her name under certain
circumstances. Requires the courts of this state to
recognize decrees of termination of parental rights and
adoptions from other states. Prohibits an attorney from
representing the volunteer mother and the intended mother
in a preplanned adoption arrangement. Provides that
licensing provisions do not apply to certain licensed
child-placing agencies. Provides that the donor of an
embryo relinquishes all parental rights and obligations
to the embryo or the resulting children at the time of

1 | the donation. Prohibits a person or entity, except a
2 | licensed physician, fertility clinic, or attorney from
3 | doing certain specified acts. Prohibits a person other
4 | than a licensed physician, fertility clinic, or attorney
5 | from accepting a fee for finding, screening, matching, or
6 | facilitating a donor or gestational carrier arrangement.
7 | Provides that if a person willfully violates the act he
8 | or she commits a misdemeanor of the second degree.
9 | Provides criminal penalties. Provides that if a person
10 | violates the act he or she is liable for damages caused
11 | by his or her acts or omissions and for reasonable
12 | attorney's fees and costs.
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