

By Senator Campbell

32-352-06

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 judgment 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. 63.0425, F.S.;

14          providing a grandparent's right to notice;

15          amending s. 63.052, F.S.; providing that a

16          court in this state retains jurisdiction until

17          the adoption is finalized in this state or in

18          another state; amending s. 63.053, F.S.;

19          providing that if an unmarried biological

20          father fails to take the actions that are

21          available to him to establish a relationship

22          with his child, his parental interest may be

23          lost entirely; amending s. 63.054, F.S.;

24          requiring that the adoption entity provide

25          certain information to the Department of

26          Health; providing that if a putative father

27          fails to report a change of address to the

28          Florida Putative Father Registry, the failure

29          is not a valid defense based upon lack of

30          notice and the adoption entity or adoption

31          petitioner is not obligated to search further

1 for the registrant; providing that if a father  
2 who is required to consent to an adoption does  
3 not know the county in which the birth mother  
4 resides, gave birth, or intends to give birth,  
5 he may initiate an action in any county in the  
6 state; amending s. 63.062, F.S.; providing that  
7 an adoption agency may file a notice of an  
8 intended adoption plan at any time before the  
9 birth of the child or before placing the child  
10 in the adoptive home; requiring an adoption  
11 entity to make a good-faith effort to locate  
12 the putative father; providing when an adoption  
13 entity has no further obligation to search for  
14 the putative father; providing for the proper  
15 venue to file a petition to terminate parental  
16 rights; amending s. 63.082, F.S.; providing  
17 that notice and consent provisions do not apply  
18 in cases where the child was conceived as a  
19 result of a violation of certain criminal  
20 statutes; limiting revocation of a consent to  
21 adopt to 3 days if the child is older than 6  
22 months of age; authorizing a court to transfer  
23 a child to the prospective adoptive parents  
24 under certain circumstances; requiring the  
25 adoption entity to file a petition for adoption  
26 or termination of parental rights after the  
27 transfer of the child; amending s. 63.085,  
28 F.S.; revising provisions relating to who may  
29 sign a valid consent for adoption; amending s.  
30 63.087, F.S.; providing procedures to terminate  
31 parental rights pending an adoption; providing

1 the proper venue in which to file a petition to  
2 terminate parental rights; requiring a person  
3 to answer the petition and to appear at the  
4 hearing for termination of parental rights;  
5 amending s. 63.088, F.S.; requiring the court  
6 to conduct an inquiry concerning the father of  
7 the child who is to be adopted; revising  
8 requirements for notice concerning the  
9 termination of parental rights; requiring  
10 persons contacted by a petitioner or adoption  
11 entity to release certain information; amending  
12 s. 63.089, F.S.; revising provisions relating  
13 to service of notice and petition regarding  
14 termination of parental rights and consent to  
15 adoption; requiring that certain scientific  
16 testing to determine paternity complies with  
17 state law; amending s. 63.092, F.S.; providing  
18 that if an adoption entity fails to file the  
19 report of its intended placement within the  
20 specified time, the failure does not constitute  
21 grounds to deny the petition for termination of  
22 parental rights or adoption under certain  
23 circumstances; identifying additional  
24 individuals who may perform a home study;  
25 providing an exception if the person to be  
26 adopted is an adult; amending s. 63.102, F.S.;  
27 revising procedures for the filing of a  
28 petition for adoption; providing the proper  
29 venue where the petition may be filed; amending  
30 s. 63.112, F.S.; revising provisions requiring  
31 that a certified copy of a judgment terminating

1 parental rights be filed at the same time the  
2 petition is filed; amending s. 63.122, F.S.;  
3 providing that certain information may be  
4 removed from the petition; amending s. 63.125,  
5 F.S.; providing that certain licensed  
6 professionals may conduct the final home  
7 investigation; amending s. 63.132, F.S.;  
8 providing exceptions to the requirement that  
9 the adoptive parent and the adoption entity  
10 file an affidavit itemizing all expenses and  
11 receipts; amending s. 63.135, F.S.; requiring  
12 the adoption entity or petitioner to file an  
13 affidavit under the Uniform Child Custody  
14 Jurisdictional and Enforcement Act; revising  
15 the information required to be submitted under  
16 oath to the court; amending s. 63.142, F.S.;  
17 requiring that if an adoption petition is  
18 dismissed, any further proceedings regarding  
19 the minor be brought in a separate custody  
20 action under ch. 61, F.S., a dependency action  
21 under ch. 39, F.S., or a paternity action under  
22 ch. 742, F.S.; amending s. 63.152, F.S.;  
23 requiring the clerk of court to transmit a  
24 certified statement of the adoption to the  
25 state where the child was born; amending s.  
26 63.162, F.S.; authorizing the birth parent to  
27 release his or her name under certain  
28 circumstances; authorizes a court to permit  
29 certain entities to contact a birth parent to  
30 advise him or her of the adoptee's request to  
31 open the file or the adoption registry and

1 provide the opportunity to waive  
2 confidentiality and consent to the opening of  
3 records; providing requirements for the release  
4 of an original sealed birth certificate;  
5 amending s. 63.172, F.S.; granting rights of  
6 inheritance when a judgment of adoption has  
7 been entered; amending s. 63.182, F.S.;  
8 providing that the interest that gives a person  
9 standing to set aside an adoption must be  
10 direct, financial, and immediate; providing an  
11 exception; providing that a showing of an  
12 indirect, inconsequential, or contingent  
13 interest is wholly inadequate; providing for  
14 construction and applicability; amending s.  
15 63.192, F.S.; requiring the courts of this  
16 state to recognize decrees of termination of  
17 parental rights and adoptions from other states  
18 and countries; amending s. 63.207, F.S.;  
19 revising provisions relating to out-of-state  
20 placement of minors; amending s. 63.212, F.S.;  
21 revising acts that are unlawful pertaining to  
22 adoptions; providing penalties; amending s.  
23 63.213, F.S.; prohibiting an attorney from  
24 representing the volunteer mother and the  
25 intended mother in a preplanned adoption  
26 arrangement; providing penalties and sanctions  
27 for payment of finder's fees in certain  
28 preplanned adoption agreements; redefining the  
29 term "fertility technique"; amending s. 63.219,  
30 F.S.; providing sanctions for persons who  
31 violate ch. 63, F.S.; creating s. 63.236, F.S.;

1 providing that any petition for termination of  
2 parental rights filed before the effective date  
3 of the act is governed by the law in effect at  
4 the time the petition was filed; amending s.  
5 409.166, F.S.; redefining the term "special  
6 needs child" to remove children of racially  
7 mixed parentage; providing for participation by  
8 adoption intermediaries in the adoption program  
9 for special needs children administered by the  
10 Department of Children and Family Services;  
11 amending s. 409.176, F.S.; providing that  
12 licensing provisions do not apply to certain  
13 licensed child-placing agencies; amending s.  
14 742.14, F.S.; providing that the donor of an  
15 embryo relinquishes all parental rights and  
16 obligations to the embryo or the resulting  
17 children at the time of the donation; amending  
18 s. 742.15, F.S.; authorizing a physician in a  
19 state outside this state to advise a  
20 commissioning couple concerning a gestational  
21 surrogate; amending s. 742.16, F.S.; revising  
22 requirements for affirmation of parental status  
23 for gestational surrogacy; creating s. 742.18,  
24 F.S.; prohibiting a person or entity, except a  
25 licensed physician, fertility clinic, or  
26 attorney, from doing certain specified acts;  
27 prohibiting a person other than a licensed  
28 physician, fertility clinic, or attorney from  
29 accepting a fee for finding, screening,  
30 matching, or facilitating a donor or  
31 gestational carrier arrangement; providing that

1 a willful violation is a misdemeanor of the  
2 second degree; providing criminal penalties;  
3 providing for damages for certain acts or  
4 omissions and for reasonable attorney's fees  
5 and costs; providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

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

12 63.022 Legislative intent.--

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

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

19 (5) It is the intent of the Legislature to provide for  
20 cooperation between private adoption entities and the  
21 Department of Children and Family Services in matters relating  
22 to permanent placement options for children in the care of the  
23 department whose parent or legal custodian wishes birth  
24 ~~parents wish~~ to participate in a private adoption plan with a  
25 qualified family.

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

28 63.032 Definitions.--As used in this chapter, the  
29 term:

30 (1) "Abandoned" means a situation in which the parent  
31 or person having legal custody of a child, while being able,

1 makes no provision for the child's support and makes little or  
2 no effort to communicate with the child, which situation is  
3 sufficient to evince an intent to reject parental  
4 responsibilities. If, in the opinion of the court, the efforts  
5 of ~~the such~~ parent or person having legal custody of the child  
6 to support and communicate with the child are only marginal  
7 efforts that do not evince a settled purpose to assume all  
8 parental duties, the court may declare the child to be  
9 abandoned. In making this decision, the court may consider the  
10 conduct of a father towards the child's mother during her  
11 pregnancy.

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

18 (3) "Adoption entity" means the department, an agency,  
19 a child-caring agency registered under s. 409.176, an  
20 intermediary, an attorney licensed in another state who is  
21 placing a child from another state into this state, or a  
22 child-placing agency licensed in another state which is  
23 placing a child from another state into this state and is  
24 qualified by the department to place children in the State of  
25 Florida.

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

30 (5)~~(4)~~ "Adult" means a person who is not a minor.  
31



1           ~~(6)(5)~~ "Agency" means any child-placing agency  
2 licensed by the department under ~~pursuant to~~ s. 63.202 to  
3 place minors for adoption.

4           ~~(7)(6)~~ "Child" means a son or daughter, whether by  
5 birth or adoption.

6           ~~(8)(7)~~ "Court" means any circuit court of this state  
7 and, when the context requires, the court of any state that is  
8 empowered to grant petitions for adoption.

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

11           ~~(10)(9)~~ "Intermediary" means an attorney who is  
12 licensed or authorized to practice in this state and who is  
13 placing or intends to place a child for adoption, including  
14 placing children born in another state with citizens of this  
15 state or country or placing children born in this state with  
16 citizens of another state or country.

17           ~~(11)(10)~~ "Legal custody" means a legal status created  
18 by court order or letter of guardianship which vests in a  
19 custodian of the child or guardian, whether an agency or an  
20 individual, the right to have physical custody of the child  
21 and the right and duty to protect, train, and discipline the  
22 child and to provide him or her with food, shelter, education,  
23 and ordinary medical, dental, psychiatric, and psychological  
24 care. The legal custodian is the person or entity in whom the  
25 legal right to custody is vested ~~has the meaning ascribed in~~  
26 ~~s. 39.01.~~

27           ~~(12)(11)~~ "Minor" means a person under the age of 18  
28 years.

29           ~~(13)(12)~~ "Parent" means a woman who gives birth to a  
30 child and a man whose consent to the adoption of the child  
31 would be required under s. 63.062. If a child has been legally

1 adopted, the term "parent" means the adoptive mother or father  
2 of the child. The terms "parent," "mother," and "father" do  
3 not include an individual whose parental relationship to the  
4 child has been legally terminated ~~has the same meaning~~  
5 ~~ascribed in s. 39.01.~~

6 ~~(14)(13)~~ "Person" has the same meaning as in s. 1.01  
7 ~~includes a natural person, corporation, government or~~  
8 ~~governmental subdivision or agency, business trust, estate,~~  
9 ~~trust, partnership, or association, and any other legal~~  
10 ~~entity.~~

11 ~~(15)(14)~~ "Relative" means a person related by blood,  
12 adoption, or marriage to the person being adopted within the  
13 third degree of consanguinity.

14 ~~(16)(15)~~ "To place" or "placement" means the process  
15 of a parent or legal guardian surrendering a child for  
16 adoption and the prospective adoptive parents receiving and  
17 adopting the child, and includes all actions by any person or  
18 adoption entity participating in the process.

19 ~~(17)~~ "Primarily lives and works in Florida" means a  
20 person who lives and works in this state at least 6 months and  
21 1 day of the year, military personnel who designate Florida as  
22 their place of residence in accordance with the Servicemembers  
23 Civil Relief Act, Pub. L. No. 108-189, or citizens of the  
24 United States living in a foreign country who designate  
25 Florida as their place of residence.

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

31

1           ~~(18)~~~~(17)~~ "Primarily lives and works outside Florida"  
2 means a person who lives and works outside this state at least  
3 6 months and 1 day of the year, military personnel who  
4 designate a state other than Florida as their place of  
5 residence in accordance with the Servicemembers Civil Relief  
6 Act, Pub. L. No. 108-189 ~~Soldiers' and Sailors' Civil Relief~~  
7 ~~Act of 1940~~, or citizens employees of the United States  
8 ~~Department of State~~ living in a foreign country who designate  
9 a state other than Florida as their place of residence and who  
10 do not reside in Florida for 6 months and 1 day of the year.

11           ~~(19)~~~~(18)~~ "Suitability of the intended placement"  
12 includes the fitness of the intended placement, with primary  
13 consideration being given to the best interest of the child.

14           ~~(20)~~~~(19)~~ "Unmarried biological father" means the  
15 child's biological father who is not married to the child's  
16 mother at the time of conception or birth of the child and who  
17 has not been declared by a court of competent jurisdiction to  
18 be the legal father of the child.

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

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

26           63.039 Duty of adoption entity to prospective adoptive  
27 parents; sanctions.--

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

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

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

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

11 (i) Obtain the written waiver of venue if applicable  
12 ~~required~~ under s. 63.062 ~~in cases in which venue for the~~  
13 ~~termination of parental rights will be located in a county~~  
14 ~~other than the county where a parent whose rights are to be~~  
15 ~~terminated resides.~~

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

18 63.0423 Procedures with respect to abandoned  
19 infants.--

20 (9)(a) A judgment terminating parental rights pending  
21 adoption involving a minor who was abandoned pursuant to this  
22 section is voidable, and any later judgment of adoption of  
23 that minor is voidable, if, upon the motion of a ~~birth~~ parent  
24 whose consent is required for adoption, the court finds that a  
25 person knowingly gave false information that prevented the  
26 ~~birth~~ parent from timely making known his or her desire to  
27 assume parental responsibilities toward the minor or from  
28 exercising his or her parental rights. A motion under this  
29 subsection must be filed with the court originally entering  
30 the judgment. The motion must be filed within a reasonable  
31

1 | time, but not later than 1 year after the entry of the  
2 | judgment terminating parental rights.

3 |         (b) No later than 30 days after the filing of a motion  
4 | under this subsection, the court shall conduct a preliminary  
5 | hearing to determine what contact, if any, will be permitted  
6 | between a ~~birth~~ parent and the child pending resolution of the  
7 | motion. ~~The~~ Such contact may be allowed only if it is  
8 | requested by a parent who has appeared at the hearing and the  
9 | court determines that it is in the best interest of the child.  
10 | If the court orders contact between a ~~birth~~ parent and child,  
11 | the order must be issued in writing as expeditiously as  
12 | possible and must state with specificity the terms ~~any~~  
13 | ~~provisions~~ regarding contact with persons other than those  
14 | with whom the child 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 or maternity of  
18 | the minor if the parent ~~person~~ seeking to set aside the  
19 | judgment is alleging to be the child's ~~birth~~ parent but has  
20 | not previously been determined by legal proceedings or  
21 | scientific testing to be the ~~birth~~ parent. Upon the filing of  
22 | test results establishing that parent's ~~person's~~ maternity or  
23 | paternity of the abandoned infant, the court may order  
24 | visitation as it deems appropriate and in the best interest of  
25 | the child.

26 |         (d) Within 45 days after the preliminary hearing, the  
27 | court shall conduct a final hearing on the motion to set aside  
28 | the judgment and shall enter its written order as  
29 | expeditiously as possible thereafter.

30 |         Section 5. Section 63.0425, Florida Statutes, is  
31 | amended to read:

1           63.0425 Grandparent's right to notice ~~adopt~~.--

2           (1) When a child has lived with a grandparent for at  
3 least 6 months within the 24-month period immediately  
4 preceding the filing of a petition for termination of parental  
5 rights pending adoption, the adoption entity shall provide  
6 notice to that grandparent of the hearing on the petition for  
7 termination of parental rights pending adoption.

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

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

13           (4) Nothing in this section shall contravene the  
14 provisions of s. 63.142(4).

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

17           63.052 Guardians designated; proof of commitment.--

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

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

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

31

1           63.053 Rights and responsibilities of an unmarried  
2 biological father; legislative findings.--

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

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

15           63.054 Actions required by an unmarried biological  
16 father to establish parental rights; Florida Putative Father  
17 Registry.--

18           (1) In order to preserve the right to notice and  
19 consent to an adoption under this chapter, an unmarried  
20 biological father must, as the "registrant," file a notarized  
21 claim of paternity form with the Florida Putative Father  
22 Registry maintained by the Office of Vital Statistics of the  
23 Department of Health and shall include therein confirmation of  
24 his willingness and intent to support the child for whom  
25 paternity is claimed in accordance with state law. The claim  
26 of paternity may be filed at any time prior to the child's  
27 birth, but a claim of paternity may not be filed after the  
28 date a petition is filed for termination of parental rights.  
29 The adoption entity shall provide the Department of Health  
30 with a notification of filing the petition for termination of  
31 parental rights. The Department of Health shall adopt by rule

1 a form to be completed by the clerk of the court for  
2 notification of filing a petition for termination of parental  
3 rights.

4 (5) The registrant may, at any time before ~~prior to~~  
5 the birth of the child for whom paternity is claimed, execute  
6 a notarized written revocation of the claim of paternity  
7 previously filed with the Florida Putative Father Registry,  
8 and upon receipt of such revocation, the claim of paternity  
9 shall be deemed null and void. If a court determines that a  
10 registrant is not the father of the minor or has no parental  
11 rights, the court shall order the department to remove the  
12 registrant's name from the registry.

13 (6) It is the obligation of the registrant or, if  
14 designated under subsection (4), his designated agent or  
15 representative to notify and update the Office of Vital  
16 Statistics of any change of address or change in the  
17 designation of an agent or representative. The failure of a  
18 registrant, or designated agent or representative, to report  
19 any ~~such~~ change is at the registrant's own risk and may shall  
20 not serve as a valid defense based upon lack of notice, and  
21 the adoption entity or petitioner shall have no further  
22 obligation to search for the registrant unless the person  
23 petitioning for termination of parental rights or adoption has  
24 actual ~~or constructive~~ notice of the registrant's address and  
25 whereabouts from another source.

26 (7) In each proceeding for termination of parental  
27 rights or each adoption proceeding in which parental rights  
28 are being terminated simultaneously with entry of the final  
29 judgment of adoption, as in stepparent and relative adoptions  
30 filed under this chapter, the petitioner must contact the  
31 Office of Vital Statistics of the Department of Health by



1 submitting an application for a search of the Florida Putative  
2 Father Registry. The petitioner shall provide the same  
3 information, if known, on the search application form which  
4 the registrant is required to furnish under subsection (3).  
5 Thereafter, the Office of Vital Statistics must issue a  
6 certificate signed by the State Registrar certifying:

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

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

16  
17 ~~The This~~ certificate must be filed with the court in the  
18 proceeding to terminate parental rights or the adoption  
19 proceeding. If a termination of parental rights and an  
20 adoption proceeding are being adjudicated separately  
21 ~~simultaneously~~, the Florida Putative Father Registry need only  
22 be searched once.

23 (8) If an unmarried biological father does not know  
24 the county in which the birth mother resides, gave birth, or  
25 intends to give birth, he may initiate an action in any county  
26 in the state, subject to the court's discretion to change  
27 venue in accordance with s. 63.087 ~~subject to the birth~~  
28 ~~mother's right to change venue to the county where she~~  
29 ~~resides.~~

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

1           63.062 Persons required to consent to adoption;  
2 affidavit of nonpaternity; waiver of venue.--

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

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

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

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

27           2. The mere fact that an unmarried biological father  
28 expresses a desire to fulfill his responsibilities towards his  
29 child which is unsupported by acts evidencing this intent does  
30 not preclude a finding by the court that the unmarried  
31

1 biological father failed to comply with the requirements of  
2 this subsection.

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

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

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

26           2. Upon service of a notice of an intended adoption  
27 plan or a petition for termination of parental rights pending  
28 adoption, timely execute ~~executed~~ and file ~~filed~~ an affidavit  
29 in that proceeding stating that he is personally fully able  
30 and willing to take responsibility for the child, setting  
31 forth his plans for care of the child, and agreeing to a court

1 order of child support and a contribution to the payment of  
2 living and medical expenses incurred for the mother's  
3 pregnancy and the child's birth in accordance with his ability  
4 to pay.

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

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

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

28 (3)(a) Under ~~Pursuant to~~ chapter 48, an adoption  
29 entity may serve upon any unmarried biological father  
30 identified by the mother or identified by a diligent search of  
31 the Florida Putative Father Registry, or upon an entity whose

1 consent is required, a notice of intended adoption plan at any  
2 time before the child's birth or before placing ~~prior to the~~  
3 ~~placement of the child in the adoptive home, including prior~~  
4 ~~to the birth of the child.~~ The notice of intended adoption  
5 plan must specifically state that if the unmarried biological  
6 father desires to contest the adoption plan, he must file with  
7 the court, within 30 days after service, a verified response  
8 that contains a pledge of commitment to the child in  
9 substantial compliance with subparagraph (2)(b)2. The notice  
10 of intended adoption plan shall notify the unmarried  
11 biological father that, if he has not already done so, he must  
12 file a claim of paternity form with the Office of Vital  
13 Statistics within 30 days after service upon him and must  
14 provide the adoption entity with a copy of the verified  
15 response filed with the court and the claim of paternity form  
16 filed with the Office of Vital Statistics. If the party served  
17 with the notice of intended adoption plan is an entity, the  
18 entity must file, within 30 days after service, a verified  
19 response setting forth a legal basis for contesting the  
20 intended adoption plan, specifically addressing the best  
21 interest of the child. If the unmarried biological father  
22 whose consent is required or the adoption entity whose consent  
23 is required fails to properly file a verified response with  
24 the court and, in the case of an unmarried biological father,  
25 a claim of paternity form with the Office of Vital Statistics  
26 within 30 days after service upon that unmarried biological  
27 father or entity whose consent is required, the consent of  
28 that unmarried biological father or entity is not ~~shall no~~  
29 ~~longer be~~ required under this chapter and that party shall be  
30 deemed to have irrevocably waived any claim of rights to the  
31 child. Each notice of intended adoption plan served upon an

1 unmarried biological father must include instructions as to  
2 the procedure the unmarried biological father must follow to  
3 submit a claim of paternity form to the Office of Vital  
4 Statistics and the address to which the registration must be  
5 directed.

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

23 (4) Any person whose consent is required under  
24 paragraph (1)(b), or any other man, ~~paragraphs (1)(c) (c)~~ may  
25 execute an irrevocable affidavit of nonpaternity in lieu of a  
26 consent under this section and by doing so waives notice to  
27 all court proceedings after the date of execution. An  
28 affidavit of nonpaternity must be executed as provided in s.  
29 63.082. The affidavit of nonpaternity may be executed before  
30 ~~prior to~~ the birth of the child. The person executing the  
31

1 affidavit must receive disclosure under s. 63.085 before ~~prior~~  
2 ~~to~~ signing the affidavit.

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

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

6 (b) Written notice of the final hearing on the  
7 adoption has been provided to the parents, if any, or proof of  
8 service of process has been filed, showing notice has been  
9 served on the parents as provided in this chapter.

10 (9) A petition for termination of parental rights  
11 shall be filed in the appropriate county as determined under  
12 s. 63.087(2). If any ~~the~~ parent ~~or parents~~ whose consent is  
13 required objects ~~rights are to be terminated object~~ to venue  
14 in the county where the action was filed, the court may  
15 transfer venue to a proper venue consistent with this chapter  
16 and chapter 47 ~~the action to the county where the objecting~~  
17 ~~parent or parents reside~~, unless the objecting parent has  
18 previously executed a waiver of venue.

19 Section 10. Paragraph (d) of subsection (1),  
20 paragraphs (b), (c), and (e) of subsection (4), subsections  
21 (5) and (6), and paragraphs (a), (b), (c), (d), and (f) of  
22 subsection (7) of section 63.082, Florida Statutes, are  
23 amended to read:

24 63.082 Execution of consent to adoption or affidavit  
25 of nonpaternity; family social and medical history; withdrawal  
26 of consent.--

27 (1)

28 (d) The notice and consent provisions of this chapter  
29 as they relate to the birth of a child or to legal fathers do  
30 not apply in cases in which the child is conceived as a result  
31 of a violation of the criminal laws of this or another state,

1 including, but not limited to, sexual battery, unlawful sexual  
2 activity with certain minors under s. 794.05, lewd acts  
3 perpetrated upon a minor, or incest.

4 (4)

5 (b) A consent to the adoption of a minor who is to be  
6 placed for adoption shall not be executed by the birth mother  
7 sooner than 48 hours after the minor's birth or the day the  
8 birth mother has been notified in writing, either on her  
9 patient chart or in release paperwork, that she is fit to be  
10 released from the licensed hospital or birth center, whichever  
11 is earlier. A consent by any man ~~a biological father or legal~~  
12 ~~father~~ may be executed at any time after the birth of the  
13 child. A consent executed under this paragraph is valid upon  
14 execution and may be withdrawn only if the court finds that it  
15 was obtained by fraud or duress.

16 (c) When the minor to be adopted is older than 6  
17 months of age at the time of the execution of the consent, the  
18 consent to adoption is valid upon execution; however, it is  
19 subject to a 3-day revocation period ~~or may be revoked at any~~  
20 ~~time prior to the placement of the minor with the prospective~~  
21 ~~adoptive parents, whichever is later~~. If a consent has been  
22 executed, this subsection may not be construed to provide a  
23 birth parent with more than 3 days to revoke the consent once  
24 the child has been placed with the prospective adoptive  
25 parents.

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

29 CONSENT TO ADOPTION  
30  
31



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

10  
11           YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU  
12           MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING  
13           THIS CONSENT OR BEFORE SIGNING THIS CONSENT:  
14

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

26  
27           IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP  
28           ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS  
29           VALID, BINDING, AND IRREVOCABLE EXCEPT UNDER  
30           SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING  
31           UP YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE

1 IMMEDIATELY PLACED FOR ADOPTION UPON THE  
2 CHILD'S RELEASE FROM A LICENSED HOSPITAL OR  
3 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD  
4 WILL BE IMPOSED UPON THE BIRTH MOTHER BEFORE  
5 SHE MAY SIGN THE CONSENT FOR ADOPTION. A BIRTH  
6 MOTHER MUST WAIT 48 HOURS FROM THE TIME OF  
7 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS  
8 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT  
9 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO  
10 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH  
11 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT  
12 FOR ADOPTION MAY BE EXECUTED. ANY MAN ~~A~~  
13 ~~BIOLOGICAL FATHER~~ MAY EXECUTE A CONSENT AT ANY  
14 TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU  
15 HAVE SIGNED THE CONSENT, IT IS VALID, BINDING,  
16 AND IRREVOCABLE AND CANNOT BE WITHDRAWN UNLESS  
17 A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR  
18 DURESS.

19  
20 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED  
21 BY FRAUD OR DURESS AND YOU WISH TO REVOKE THAT  
22 CONSENT, YOU MUST:

- 23  
24 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A  
25 LETTER, THAT YOU WISH TO WITHDRAW YOUR CONSENT;  
26 AND  
27 2. PROVE IN COURT THAT THE CONSENT WAS  
28 OBTAINED BY FRAUD OR DURESS.

29  
30 This statement of rights is not required for the adoption of a  
31 relative, an adult, a stepchild, or a child older than 6

1 months of age. A consent form for the adoption of a child  
2 older than 6 months of age at the time of execution of consent  
3 must contain a statement outlining the revocation rights  
4 provided in paragraph (c).

5 (5) A copy or duplicate original of each consent  
6 signed under this chapter in an action for termination of  
7 ~~parental rights pending adoption~~ must be provided to the  
8 person who executed the consent to adoption. The copy must be  
9 hand delivered, with a written acknowledgment of receipt  
10 signed by the person whose consent is required at the time of  
11 execution. If a copy of a consent cannot be provided as  
12 required in this subsection, the adoption entity must execute  
13 an affidavit stating why the copy of the consent was not  
14 delivered. The original consent and acknowledgment of receipt,  
15 or an affidavit stating why the copy of the consent was not  
16 delivered, must be filed with the petition for termination of  
17 parental rights pending adoption.

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

24 (b) Upon execution of the consent of the ~~birth~~ parent,  
25 the adoption entity shall be permitted to intervene in the  
26 dependency case as a party in interest and shall provide the  
27 court having jurisdiction over the minor pursuant to the  
28 shelter or dependency petition filed by the department with a  
29 copy of the preliminary home study of the prospective adoptive  
30 parents and any other evidence of the suitability of the  
31 placement. The preliminary home study shall be maintained with

1 strictest confidentiality within the dependency court file and  
2 the department's file. A preliminary home study must be  
3 provided to the court in all cases in which an adoption entity  
4 has intervened under ~~pursuant to~~ this section.

5 (c) Upon a determination by the court that the  
6 prospective adoptive parents have met the requirements of this  
7 chapter ~~are properly qualified~~ to adopt the minor child and  
8 that the adoption appears to be in the best interest of the  
9 minor child, the court shall immediately order the transfer of  
10 custody of the minor child to the prospective adoptive  
11 parents, under the supervision of the adoption entity. If the  
12 department is no longer pursuing a termination of parental  
13 rights or dependency case over the child, the adoption entity  
14 shall thereafter provide monthly supervision reports to the  
15 court, only if required, ~~department~~ until finalization of the  
16 adoption.

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

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

1 subsection, the term "business day" means any day on which the  
2 United States Postal Service accepts certified mail for  
3 delivery.

4 (b) Upon receiving timely written notice from a person  
5 whose consent to adoption is required of that person's desire  
6 to withdraw consent to adoption, the adoption entity must  
7 contact the prospective adoptive parent to arrange a time  
8 certain for the adoption entity to regain physical custody of  
9 the minor, unless, upon a motion for emergency hearing by the  
10 adoption entity, the court determines in written findings that  
11 placement of the minor with the person who had legal or  
12 physical custody of the child immediately before placing the  
13 child for adoption ~~withdrawing consent~~ may endanger the minor,  
14 or that the person who desires to withdraw consent to the  
15 adoption would not be required to consent to the adoption, ~~or~~  
16 has been determined to have abandoned the child, or may  
17 otherwise be subject to the consent being waived under this  
18 chapter.

19 (c) If the court finds that the ~~such~~ placement may  
20 endanger the minor, the court must enter an order regarding  
21 continued placement of the minor. The order shall direct  
22 continued placement with the prospective adoptive parents  
23 pending further proceedings if they desire continued  
24 placement. If the prospective adoptive parents do not desire  
25 continued placement, the order shall include, but not be  
26 limited to, whether temporary placement in foster care, with  
27 the person who had legal or physical custody of the child  
28 immediately before placing the child for adoption, or with a  
29 relative is in the best interest of the child and is  
30 ~~appropriate~~, whether an investigation by the department is  
31

1 | ~~recommended, and whether a relative is available for the~~  
2 | ~~temporary placement.~~

3 |         (d) If the person withdrawing a required consent  
4 | claims to be the father of the minor but has not been  
5 | established to be the father by marriage, court order, or  
6 | scientific testing, the court may order scientific paternity  
7 | testing upon a showing that the testing is in compliance with  
8 | state law ~~and reserve ruling on removal of the minor until the~~  
9 | ~~results of such testing have been filed with the court.~~

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

15 |         Section 11. Subsection (1) of section 63.085, Florida  
16 | Statutes, is amended to read:

17 |         63.085 Disclosure by adoption entity.--

18 |         (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE  
19 | ADOPTIVE PARENTS.--Not later than 14 days after a person  
20 | seeking to adopt a minor or a person seeking to place a minor  
21 | for adoption contacts an adoption entity in person or provides  
22 | the adoption entity with a mailing address, the entity must  
23 | provide a written disclosure statement to that person if the  
24 | entity agrees or continues to work with the ~~such~~ person. If an  
25 | adoption entity is assisting in the effort to terminate the  
26 | parental rights of a parent who did not initiate ~~the~~ contact  
27 | with the adoption entity, the written disclosure must be  
28 | provided within 14 days after that parent is identified and  
29 | located. For purposes of providing the written disclosure, a  
30 | person is considered to be seeking to place a minor for  
31 | adoption when that person has sought information or advice

1 from the adoption entity regarding the option of adoptive  
2 placement. The written disclosure statement must be in  
3 substantially the following form:

4 ADOPTION DISCLOSURE

5  
6 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE  
7 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A  
8 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,  
9 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING  
10 ADOPTION UNDER FLORIDA LAW:

11  
12 1. The name, address, and telephone number of  
13 the adoption entity providing this disclosure  
14 is:

15 Name:

16 Address:

17 Telephone Number:

18 2. The adoption entity does not provide legal  
19 representation or advice to birth parents, and  
20 birth parents have the right to consult with an  
21 attorney of their own choosing to advise them.

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

28 4. A valid consent for adoption may not be  
29 signed by the birth mother until 48 hours after  
30 the birth of the child, or the day the birth  
31 mother is notified, in writing, that she is fit

1 for discharge from the licensed hospital or  
2 birth center. Any man ~~A putative father~~ may  
3 sign a valid consent for adoption at any time  
4 after the birth of the child.

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

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

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

25 8. A birth parent has the right to have a  
26 witness of his or her choice, who is  
27 unconnected with the adoption entity or the  
28 adoptive parents, to be present and witness the  
29 signing of the consent or affidavit of  
30 nonpaternity.  
31



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

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

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

16  
17          Section 12. Section 63.087, Florida Statutes, is  
18          amended to read:

19                63.087 Proceeding to terminate parental rights pending  
20          adoption; general provisions.--

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

25                (2) VENUE.--

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

28                    1. In the county where the child resides;

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

31

1           ~~2.3.~~ In the county where the adoption entity is  
2 located; or

3           ~~3.4.~~ If neither parent resides in the state, in the  
4 county where the adoption entity is located. The fact of the  
5 minor's presence within the state confers jurisdiction on the  
6 court in proceedings in the minor's case under this chapter,  
7 or to a parent or guardian if due notice has been given.

8           (b) If a petition for termination of parental rights  
9 has been filed and a parent whose consent is required ~~rights~~  
10 ~~are to be terminated~~ objects to venue, there must be a hearing  
11 in which the court shall determine whether that parent intends  
12 to assert legally recognized grounds to contest a termination  
13 of parental rights and, if so, the court may ~~shall immediately~~  
14 transfer venue to a proper venue under this subsection ~~the~~  
15 ~~county where that parent resides or resided at the time of the~~  
16 ~~execution of the consent~~. For purposes of selecting venue, the  
17 court shall consider the ease of access to the court for the  
18 parent and the factors set forth in s. 47.122 ~~who intends to~~  
19 ~~contest a termination of parental rights~~.

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

22  
23 For purposes of the hearing under this subsection, witnesses  
24 located in another jurisdiction may testify by deposition or  
25 testify by telephone, audiovisual means, or other electronic  
26 means before a designated court or at another location.  
27 Documentary evidence transmitted from another location by  
28 technological means that do not produce an original writing  
29 may not be excluded from evidence on an objection based on the  
30 means of transmission. The court on its own motion may  
31

1 otherwise prescribe the manner in which and the terms upon  
2 which the testimony is taken.

3 (3) PREREQUISITE FOR ADOPTION.--A petition for  
4 adoption may not be filed until after the date the court  
5 enters the judgment terminating parental rights pending  
6 adoption ~~under this chapter or under chapter 39~~. Adoptions of  
7 relatives, adult adoptions, or adoptions of stepchildren shall  
8 not be required to file a separate termination of parental  
9 rights proceeding pending adoption. In such cases, the  
10 petitioners may file a joint petition for termination of  
11 parental rights and adoption, attaching all required consents,  
12 affidavits, notices, and acknowledgments ~~shall be attached to~~  
13 ~~the petition for adoption or filed separately in the adoption~~  
14 ~~proceeding~~. All provisions of this chapter apply to these  
15 joint petitions unless otherwise provided by law.

16 (4) PETITION.--

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

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

28 (c) The petition must be entitled: "In the Matter of  
29 the Termination of Parental Rights for the Proposed Adoption  
30 of a Minor Child."  
31

1 (d) The petition to terminate parental rights pending  
2 adoption must be in writing and signed by the petitioner under  
3 oath stating the petitioner's good faith in filing the  
4 petition. A written consent to adoption, affidavit of  
5 nonpaternity, or affidavit of diligent search under s. 63.088,  
6 for each person whose consent to adoption is required under s.  
7 63.062, must be executed and attached.

8 (e) The petition must include:

9 1. The minor's name, gender, date of birth, and place  
10 of birth. The petition must contain all names by which the  
11 minor is or has been known, excluding the minor's prospective  
12 adoptive name but including the minor's legal name at the time  
13 of the filing of the petition. In the case of an infant child  
14 whose adoptive name appears on the original birth certificate,  
15 the adoptive name ~~may shall~~ not be included in the petition  
16 ~~or, nor shall it be included~~ elsewhere in the termination of  
17 parental rights proceeding unless the proceedings are filed  
18 according to s. 63.102(6).

19 2. All information required by the Uniform Child  
20 Custody Jurisdiction and Enforcement Act and the Indian Child  
21 Welfare Act, except the names and addresses of the adoptive  
22 parents, which shall be kept confidential as required by s.  
23 63.163.

24 3. A statement of the grounds under s. 63.089 upon  
25 which the petition is based.

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

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

31

1           6. A certification of compliance with the requirements  
2 of s. 63.0425 regarding notice to grandparents of an impending  
3 adoption.

4           (5) SUMMONS TO BE ISSUED.--The petitioner shall cause  
5 a summons to be issued substantially in the form provided in  
6 Form 1.902, Florida Rules of Civil Procedure. The Petition and  
7 summons and a copy of the petition shall be served upon any  
8 person who executed a whose consent to adoption or affidavit  
9 of nonpaternity has been provided but who has not waived  
10 service of the pleadings and notice of the hearing thereon and  
11 also upon any person whose consent to adoption is required  
12 under s. 63.062, but who has not provided that consent or an  
13 affidavit of nonpaternity.

14           (6) ANSWER AND APPEARANCE REQUIRED.--An answer to the  
15 petition or any pleading requiring an answer shall be timely  
16 filed in accordance with the Florida Rules of Civil Procedure.  
17 Failure to file a written response or to appear at the hearing  
18 on the petition constitutes grounds upon which the court may  
19 terminate parental rights. Failure to appear at the hearing  
20 constitutes grounds upon which the court may terminate  
21 parental rights. The petitioner shall provide notice of the  
22 final hearing by United States mail to any person who has been  
23 served with the summons and petition for termination of  
24 parental rights within the specified time periods.  
25 ~~Notwithstanding the filing of any answer or any pleading, Any~~  
26 person present at the hearing to terminate parental rights  
27 pending adoption whose consent to adoption is required under  
28 s. 63.062 must:

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

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

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

5 63.088 Proceeding to terminate parental rights pending  
6 adoption; notice and service; diligent search.--

7 (2) IDENTITY KNOWN AND LOCATION UNKNOWN; PROCEDURES TO  
8 INITIATE IDENTIFICATION OF LOCATION PROCEDURES.--When the  
9 location of a person whose consent to an adoption is required  
10 but is unknown ~~not known~~, the adoption entity must begin the  
11 inquiry and diligent search process required by this section  
12 within a reasonable time period after the date on which the  
13 person seeking to place a minor for adoption has evidenced in  
14 writing to the adoption entity a desire to place the minor for  
15 adoption with that entity, or not later than 30 days after the  
16 date any money is provided as permitted under this chapter by  
17 the adoption entity for the benefit of the person seeking to  
18 place a minor for adoption.

19 (3) LOCATION AND IDENTITY KNOWN.--Before the court may  
20 determine that a minor is available for adoption, and in  
21 addition to the other requirements set forth in this chapter,  
22 each person whose consent is required under s. 63.062, who has  
23 not executed a consent or an affidavit of nonpaternity, and  
24 whose location and identity have been determined by compliance  
25 with the procedures in this section must be personally served,  
26 pursuant to chapter 48, at least 20 days before the hearing  
27 with a copy of the summons and a copy of the petition to  
28 terminate parental rights pending adoption as provided under  
29 s. 63.087(5) and with notice in substantially the following  
30 form:

31 NOTICE OF PETITION AND HEARING

1 TO TERMINATE PARENTAL RIGHTS

2 PENDING ADOPTION

3  
4 A petition to terminate parental rights pending  
5 adoption has been filed. A copy of the petition  
6 is being served with this notice. There will be  
7 a hearing on the petition to terminate parental  
8 rights pending adoption on (date) at (time)  
9 before (judge) at (location, including complete  
10 name and street address of the courthouse). The  
11 court has set aside (amount of time) for this  
12 hearing.

13  
14 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE  
15 TO TIMELY FILE A WRITTEN RESPONSE TO THE  
16 PETITION AND THIS NOTICE WITH THE COURT AND ~~OR~~  
17 TO APPEAR AT THIS HEARING CONSTITUTES GROUNDS  
18 UPON WHICH THE COURT SHALL END ANY PARENTAL  
19 RIGHTS YOU MAY HAVE OR ASSERT REGARDING THE  
20 MINOR CHILD.

21  
22 (5) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry  
23 by the court under subsection (4) identifies any person whose  
24 consent to adoption is required under s. 63.062 and who has  
25 not executed a consent to adoption or an affidavit of  
26 nonpaternity, and the location of the person from whom consent  
27 is required is unknown, the adoption entity must conduct a  
28 diligent search for that person which must include inquiries  
29 concerning:

- 1 (a) The person's current address, or any previous  
2 address, through an inquiry of the United States Postal  
3 Service through the Freedom of Information Act;
- 4 (b) The last known employment of the person, including  
5 the name and address of the person's employer;
- 6 (c) Regulatory agencies, ~~including those~~ regulating  
7 professional licensing in the area where the person last  
8 resided;
- 9 (d) Names and addresses of relatives to the extent  
10 such can be reasonably obtained from the petitioner or other  
11 sources, contacts with those relatives, and inquiry as to the  
12 person's last known address. The petitioner shall pursue any  
13 leads of any addresses to which the person may have moved;
- 14 (e) Information as to whether or not the person may  
15 have died and, if so, the date and location;
- 16 (f) Telephone listings in the area where the person  
17 last resided;
- 18 (g) Inquiries of law enforcement agencies in the area  
19 where the person last resided;
- 20 (h) Highway patrol records in the state where the  
21 person last resided;
- 22 (i) Department of Corrections records in the state  
23 where the person last resided;
- 24 (j) Hospitals in the area where the person last  
25 resided;
- 26 (k) Records of utility companies, including water,  
27 sewer, cable television, and electric companies, in the area  
28 where the person last resided;
- 29 (l) Records of the Armed Forces of the United States  
30 as to whether there is any information as to the person;
- 31



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 a ~~an identified~~  
31

1 birth father whose consent is not required ~~under~~ pursuant to  
2 ss. 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 with  
9 | restoration of competency found to be medically improbable;

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

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

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

27 |         (4) FINDING OF ABANDONMENT.--A finding of abandonment  
28 | resulting in a termination of parental rights must be based  
29 | upon clear and convincing evidence that a parent or person  
30 | having legal custody has abandoned the child in accordance  
31 | with the definition contained in s. 63.032(1). A finding of

1 | abandonment may be based upon emotional abuse or a refusal to  
2 | provide reasonable financial support, when able, to a birth  
3 | mother during her pregnancy. If, in the opinion of the court,  
4 | the efforts of a parent or person having legal custody of the  
5 | child to support and communicate with the child are only  
6 | marginal efforts that do not evince a settled purpose to  
7 | assume all parental duties, the court may declare the child to  
8 | be abandoned. In making this decision, the court may consider  
9 | the conduct of a father toward the child's mother during her  
10 | pregnancy.

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

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

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

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

23 |             4. Whether the amount of support provided or medical  
24 | expenses paid was appropriate, taking into consideration the  
25 | needs of the child and relative means and resources available  
26 | to the person alleged to have abandoned the child.

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

30 |             1. The period of time for which the parent has been or  
31 | is expected to be incarcerated will constitute a significant

1 ~~substantial~~ portion of the child's minority ~~period of time~~  
2 ~~before the child will attain the age of 18 years;~~

3           2. The incarcerated parent has been determined by the  
4 court to be a violent career criminal as defined in s.  
5 775.084, a habitual violent felony offender as defined in s.  
6 775.084, convicted of child abuse as defined in s. 827.03, or  
7 a sexual predator as defined in s. 775.21; has been convicted  
8 of first degree or second degree murder in violation of s.  
9 782.04 or a sexual battery that constitutes a capital, life,  
10 or first degree felony violation of s. 794.011; or has been  
11 convicted of an offense in another jurisdiction which is  
12 substantially similar to one of the offenses listed in this  
13 subparagraph. As used in this section, the term "substantially  
14 similar offense" means any offense that is substantially  
15 similar in elements and penalties to one of those listed in  
16 this subparagraph, and that is in violation of a law of any  
17 other jurisdiction, whether that of another state, the  
18 District of Columbia, the United States or any possession or  
19 territory thereof, or any foreign jurisdiction; or

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

25           (5) DISMISSAL OF PETITION.--If the court does not find  
26 by clear and convincing evidence that parental rights of a  
27 parent should be terminated pending adoption, the court must  
28 dismiss the petition and that parent's parental rights that  
29 were the subject of such petition shall remain in full force  
30 under the law. The order must include written findings in  
31 support of the dismissal, including findings as to the

1 criteria in subsection (4) if rejecting a claim of  
2 abandonment. Parental rights may not be terminated based upon  
3 a consent that the court finds has been timely withdrawn under  
4 s. 63.082 or a consent to adoption or affidavit of  
5 nonpaternity that the court finds was obtained by fraud or  
6 duress. The court must enter an order based upon written  
7 findings providing for the placement of the minor. The court  
8 may order scientific testing to determine the paternity of the  
9 minor at any time during which the court has jurisdiction over  
10 the minor, upon a showing that the testing is in compliance  
11 with state law. Further proceedings, if any, regarding the  
12 minor must be brought in a separate custody action under  
13 chapter 61, a dependency action under chapter 39, or a  
14 paternity action under chapter 742.

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

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

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

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

25 (a) A motion for relief from a judgment terminating  
26 parental rights must be filed with the court originally  
27 entering the judgment. The motion must be filed within a  
28 reasonable time, but not later than 1 year after the entry of  
29 the judgment terminating parental rights.

30 (b) No later than 30 days after the filing of a motion  
31 under this subsection, the court must conduct a preliminary

1 hearing to determine what contact, if any, shall be permitted  
2 between a parent and the child pending resolution of the  
3 motion. ~~The Such~~ contact shall be considered only if it is  
4 requested by a parent who has appeared at the hearing. If the  
5 court orders contact between a parent and child, the order  
6 must be issued in writing as expeditiously as possible and  
7 must state with specificity the terms ~~any provisions~~ regarding  
8 contact with persons other than those with whom the child  
9 resides.

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

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

26 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and  
27 records pertaining to a petition to terminate parental rights  
28 pending adoption are related to the subsequent adoption of the  
29 minor and are subject to ~~the provisions of~~ s. 63.162. The  
30 confidentiality provisions of this chapter do not apply to the  
31



1 extent information regarding persons or proceedings must be  
2 made available as specified under s. 63.088.

3 Section 15. Section 63.092, Florida Statutes, is  
4 amended to read:

5 63.092 Report to the court of intended placement by an  
6 adoption entity; at-risk placement; preliminary study.--

7 (1) REPORT TO THE COURT.--The adoption entity must  
8 report any intended placement of a minor for adoption with any  
9 person who is not a relative or a stepparent if the adoption  
10 entity ~~has knowledge of, or participates in the, such~~ intended  
11 placement. The report must be made to the court before the  
12 minor is placed in the home or within 2 business days ~~48 hours~~  
13 thereafter. Failure to file the report of intended placement  
14 within 2 business days does not constitute grounds to deny the  
15 petition for termination of parental rights or adoption if the  
16 report is subsequently filed and no party is prejudiced by the  
17 failure to file the report in a timely manner.

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

30 (3) PRELIMINARY HOME STUDY.--Before placing the minor  
31 in the intended adoptive home, a preliminary home study must

1 be performed by a licensed child-placing agency, a  
2 ~~child caring agency registered under s. 409.176,~~ a licensed  
3 psychologist, clinical social worker, marriage and family  
4 therapist, or mental health counselor qualified and licensed  
5 to perform a home study in the state or country where the  
6 adoptive parent resides ~~professional, or agency described in~~  
7 ~~s. 61.20(2),~~ unless the adoptee is an adult or the petitioner  
8 is a stepparent or a relative. If the adoptee is an adult or  
9 the petitioner is a stepparent or a relative, a preliminary  
10 home study may be required by the court for good cause shown.  
11 The department is required to perform the preliminary home  
12 study only if there is no licensed child-placing agency,  
13 ~~child caring agency registered under s. 409.176,~~ licensed  
14 professional, or agency described in s. 61.20(2), in the  
15 county where the prospective adoptive parents reside. The  
16 preliminary home study must be made to determine the  
17 suitability of the intended adoptive parents and may be  
18 completed before ~~prior to~~ identification of a prospective  
19 adoptive minor. A favorable preliminary home study is valid  
20 for 1 year after the date of its completion. Upon its  
21 completion, a copy of the home study must be provided to the  
22 intended adoptive parents who were the subject of the home  
23 study. A minor may not be placed in an intended adoptive home  
24 before a favorable preliminary home study is completed unless  
25 the adoptive home is also a licensed foster home under s.  
26 409.175. The preliminary home study must include, at a  
27 minimum:

28 (a) An interview with the intended adoptive parents;  
29 (b) Records checks of the department's central abuse  
30 registry and criminal records correspondence checks under  
31

1 ~~pursuant to~~ s. 435.045 through the Department of Law  
2 Enforcement on the intended adoptive parents;  
3 (c) An assessment of the physical environment of the  
4 home;  
5 (d) A determination of the financial security of the  
6 intended adoptive parents;  
7 (e) Documentation of counseling and education of the  
8 intended adoptive parents on adoptive parenting;  
9 (f) Documentation that information on adoption and the  
10 adoption process has been provided to the intended adoptive  
11 parents;  
12 (g) Documentation that information on support services  
13 available in the community has been provided to the intended  
14 adoptive parents; and  
15 (h) A copy of each prospective adoptive parent's  
16 signed acknowledgment of receipt of disclosure required by s.  
17 63.085.  
18  
19 If the preliminary home study is favorable, a minor may be  
20 placed in the home pending entry of the judgment of adoption.  
21 A minor may not be placed in the home if the preliminary home  
22 study is unfavorable. If the preliminary home study is  
23 unfavorable, the adoption entity may, within 20 days after  
24 receipt of a copy of the written recommendation, petition the  
25 court to determine the suitability of the intended adoptive  
26 home. A determination as to suitability under this subsection  
27 does not act as a presumption of suitability at the final  
28 hearing. In determining the suitability of the intended  
29 adoptive home, the court must consider the totality of the  
30 circumstances in the home. No minor may be placed in a home in  
31 which there resides any person determined by the court to be a

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

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

5 63.102 Filing of petition for adoption or declaratory  
6 statement; venue; proceeding for approval of fees and costs.--

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

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

23 (2) VENUE.--A petition for adoption or for a  
24 declaratory statement as to the adoption contract may ~~shall~~ be  
25 filed in the county where the petition for termination of  
26 parental rights was granted, in ~~unless the court, in~~  
27 ~~accordance with s. 47.122, changes the venue to the county~~  
28 where the petitioner or petitioners or the minor resides, or  
29 where the adoption entity ~~with which the minor has been placed~~  
30 is located. The circuit court in this state may ~~must~~ retain  
31 jurisdiction over the matter until a final judgment is entered

1 on the adoption. The Uniform Child Custody Jurisdiction and  
2 Enforcement Act does not apply until a final judgment is  
3 entered on the adoption.

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

9 (6) STEPCHILD, RELATIVE, AND ADULT  
10 ADOPTIONS.--Petitions for the adoption of a stepchild, a  
11 relative, or an adult ~~may shall~~ not require the filing of a  
12 separate judgment or separate proceeding terminating parental  
13 rights pending adoption. The final judgment of adoption has  
14 ~~shall have~~ the effect of terminating parental rights  
15 simultaneously with the granting of the decree of adoption.

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

18 63.112 Petition for adoption; description; report or  
19 recommendation, exceptions; mailing.--

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

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

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

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

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

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

9 63.122 Notice of hearing on petition.--

10 (3) Upon a showing by the petitioner that the privacy,  
11 safety, or ~~and~~ welfare of the petitioner, parent, or minor may  
12 be endangered, the court may order the names, addresses, or  
13 other identifying information of the petitioner, parent, or  
14 minor, or all both, to be deleted from the notice of hearing  
15 and from the copy of the petition attached thereto, provided  
16 the substantive rights of any person will not thereby be  
17 affected.

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

20 63.125 Final home investigation.--

21 (1) The final home investigation must be conducted  
22 before the adoption becomes final. The investigation may be  
23 conducted by a licensed child-placing agency or a licensed  
24 professional qualified to conduct home studies in the same  
25 manner as provided in s. 63.092 to ascertain whether the  
26 adoptive home is a suitable home for the minor and whether the  
27 proposed adoption is in the best interest of the minor. Unless  
28 directed by the court, an investigation and recommendation are  
29 not required if the petitioner is a stepparent or if the minor  
30 is related to one of the adoptive parents within the third  
31 degree of consanguinity. The department is required to perform

1 | the home investigation only if there is no licensed  
2 | child-placing agency or professional under ~~pursuant to~~ s.  
3 | 63.092 in the county in which the prospective adoptive parent  
4 | resides.

5 |         (4) The department, the licensed child-placing agency,  
6 | or the professional making the required investigation may  
7 | request other state agencies, licensed professionals qualified  
8 | to conduct a home study, or child-placing agencies within or  
9 | outside this state to make investigations of designated parts  
10 | of the inquiry and to make a written report to the department,  
11 | the professional, or other person or agency.

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

14 |         63.132 Affidavit of expenses and receipts.--

15 |         (4) This section does not apply to an adoption by a  
16 | stepparent or an adoption of a relative or adult, does not  
17 | apply to the finalization of an adoption of a minor whose  
18 | parental rights were terminated under chapter 39, and does not  
19 | apply to the recognition of an adoption decree of a minor  
20 | child adopted in a foreign country.

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

23 |         63.135 Information under oath to be submitted to the  
24 | court.--

25 |         (1) The adoption entity or petitioner must file an  
26 | affidavit under the Uniform Child Custody Jurisdictional and  
27 | Enforcement Act in a termination of parental rights ~~Each party~~  
28 | ~~in an adoption~~ proceeding, in the first pleading or in an  
29 | affidavit attached to that pleading, ~~shall give information~~  
30 | ~~under oath as to the child's present address, the places where~~  
31 | ~~the child has lived within the last 5 years, and the names and~~

1 ~~present addresses of the persons with whom the child has lived~~  
2 ~~during that period. In the pleading or affidavit each party~~  
3 ~~shall further declare under oath whether:~~

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

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

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

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

15       63.142 Hearing; judgment of adoption.--

16       (3) DISMISSAL.--

17       (a) If the petition is dismissed, further proceedings,  
18 if any, regarding the minor must be brought in a separate  
19 custody action under chapter 61, a dependency action under  
20 chapter 39, or a paternity action under chapter 742 ~~the court~~  
21 ~~shall determine the person that is to have custody of the~~  
22 ~~minor.~~

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

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



1 | parental rights pending adoption is voidable and any later  
2 | judgment of adoption of that minor is voidable if, upon a  
3 | parent's motion for relief from judgment, the court finds that  
4 | the adoption fails to meet the requirements of this chapter.  
5 | The motion must be filed within a reasonable time, but not  
6 | later than 1 year after the date the judgment terminating  
7 | parental rights was entered.

8 |           Section 23. Section 63.152, Florida Statutes, is  
9 | amended to read:

10 |           63.152 Application for new birth record.--Within 30  
11 | days after entry of a judgment of adoption, the clerk of the  
12 | court shall transmit a certified statement of the entry to the  
13 | state registrar of vital statistics in the state where the  
14 | adoptee was born on a form provided by the Florida registrar.  
15 | A new birth record containing the necessary information  
16 | supplied by the certificate shall be issued by the registrar  
17 | on application of the adopting parents or the adopted person.

18 |           Section 24. Subsections (1), (3), (4), and (7) of  
19 | section 63.162, Florida Statutes, are amended, and subsection  
20 | (8) is added to that section, to read:

21 |           63.162 Hearings and records in adoption proceedings;  
22 | confidential nature.--

23 |           (1) All hearings held in proceedings under this  
24 | chapter ~~act~~ shall be held in closed court without admittance  
25 | of any person other than essential officers of the court, the  
26 | parties, witnesses, counsel, persons who have not consented to  
27 | the adoption and are required to consent, and representatives  
28 | of the agencies who are present to perform their official  
29 | duties.

30 |           (3) The court files, records, and papers in the  
31 | adoption of a minor shall be indexed only in the name of the

1 petitioner, and the name of the petitioner and the minor may  
2 ~~shall~~ not be noted on any docket, index, or other record  
3 outside the court file, except that closed agency files may be  
4 cross-referenced in the original and adoptive names of the  
5 minor.

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

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

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

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

20 (d) Upon order of the court for good cause shown. In  
21 determining whether good cause exists, the court shall give  
22 primary consideration to the best interests of the adoptee,  
23 but must also give due consideration to the interests of the  
24 adoptive and birth parents. Factors to be considered in  
25 determining whether good cause exists include, but are not  
26 limited to:

- 27 1. The reason the information is sought;
- 28 2. The existence of means available to obtain the  
29 desired information without disclosing the identity of the  
30 birth parents, such as by having the court, a person appointed  
31 by the court, the department, or the licensed child-placing

1 agency contact the birth parents and request specific  
2 information;

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

5 4. The age, maturity, judgment, and expressed needs of  
6 the adoptee; and

7 5. The recommendation of the department, licensed  
8 child-placing agency, or professional which prepared the  
9 preliminary study and home investigation, or the department if  
10 no such study was prepared, concerning the advisability of  
11 disclosure.

12 (7) The court may, upon petition of an adult adoptee,  
13 or the adoptive parents if the adoptee is less than 18 years  
14 of age, for good cause shown, appoint an intermediary or a  
15 licensed child-placing agency to contact a birth parent ~~to who~~  
16 ~~has not registered with the adoption registry pursuant to s.~~  
17 ~~63.165 and advise him or her them~~ of the adoptee's request to  
18 open the file or the adoption registry, and offer the birth  
19 parent the opportunity to waive confidentiality and consent to  
20 the opening of his or her records availability of same.

21 (8) As a result of any proceeding under s. 382.015,  
22 this section, or any other proceeding to unseal an original  
23 birth certificate, the Department of Health may release an  
24 original sealed birth certificate only to the department. The  
25 department must make a written request for the birth  
26 certificate from the Department of Health within 10 days after  
27 the department's receipt of an order or other documentation  
28 authorizing unsealing of the original birth certificate. Upon  
29 receipt of the department's request, the Department of Health  
30 shall release the original sealed birth certificate to the  
31 department in a manner that will ensure confidentiality.

1           Section 25. Paragraph (c) of subsection (1) of section  
2 63.172, Florida Statutes, is amended to read:

3           63.172 Effect of judgment of adoption.--

4           (1) A judgment of adoption, whether entered by a court  
5 of this state, another state, or of any other place, has the  
6 following effect:

7           (c) ~~Except for rights of inheritance,~~ It creates the  
8 relationship between the adopted person and the petitioner and  
9 all relatives of the petitioner that would have existed if the  
10 adopted person were a blood descendant of the petitioner born  
11 within wedlock. This relationship shall be created for all  
12 purposes, including the rights of inheritance and  
13 applicability of statutes, documents, and instruments, whether  
14 executed before or after entry of the adoption judgment, that  
15 do not expressly exclude an adopted person from their  
16 operation or effect.

17           Section 26. Section 63.182, Florida Statutes, is  
18 amended to read:

19           63.182 Statute of repose.--

20           (1) Notwithstanding s. 95.031 or s. 95.11 or any other  
21 statute, an action or proceeding of any kind to vacate, set  
22 aside, or otherwise nullify a judgment of adoption or an  
23 underlying judgment terminating parental rights on any ground  
24 may not be filed more than 1 year after entry of the judgment  
25 terminating parental rights.

26           (2)(a) Except for the specific persons expressly  
27 entitled to be given notice of an adoption in accordance with  
28 this chapter, the interest which gives a person standing to  
29 set aside an adoption must be direct, financial, and  
30 immediate, and the person must show that he or she will gain  
31 or lose by the direct legal operation and effect of the

1 judgment. A showing of an indirect, inconsequential, or  
2 contingent interest is wholly inadequate, and a person with  
3 this indirect interest lacks standing to set aside a judgment  
4 of adoption.

5 (b) This subsection is remedial and applies to all  
6 adoptions, including those in which a judgment of adoption has  
7 already been entered.

8 Section 27. Section 63.192, Florida Statutes, is  
9 amended to read:

10 63.192 Recognition of foreign judgment affecting  
11 adoption.--A judgment ~~of court~~ terminating the relationship of  
12 parent and child or establishing the relationship by adoption  
13 issued under ~~pursuant to~~ due process of law by a court or  
14 governmentally authorized body of any other jurisdiction  
15 within or without the United States shall be recognized in  
16 this state, and the rights and obligations of the parties ~~on~~  
17 ~~matters within the jurisdiction of this state~~ shall be  
18 determined as though the judgment were issued by a court of  
19 this state. When a minor child has been made available for  
20 adoption in a foreign state or foreign country and the  
21 parental rights of the minor child's parent have been  
22 terminated, or the child has been declared to be abandoned or  
23 orphaned, no additional termination of parental rights  
24 proceeding need occur, and the parties may proceed to a  
25 judicial finalization of the adoption according to the  
26 procedures set forth in this chapter.

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

29 63.207 Out-of-state placement.--

30 (1) Unless the parent placing a minor for adoption  
31 files an affidavit that the parent chooses to place the minor

1 outside the state, giving the reason for that placement, or  
2 the minor is to be placed with a relative or with a  
3 stepparent, or the minor is a special needs child, as defined  
4 in s. 409.166, or for other good cause shown, an adoption  
5 entity may not:

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

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

23 (2) An adoption entity may not counsel a birth mother  
24 to leave the state for the purpose of giving birth to a child  
25 outside the state in order to secure a fee in excess of that  
26 permitted under s. 63.097 when it is the intention that the  
27 child is to be placed for adoption outside the state.

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

31

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

4           63.212 Prohibited acts; penalties for violation.--

5           (1) It is unlawful for any person:

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

12           (c) To sell or surrender, or to arrange for the sale  
13 or surrender of, a minor to another person for money or  
14 anything of value or to receive ~~a such~~ minor child for ~~a such~~  
15 payment or thing of value. If a minor is being adopted by a  
16 relative or by a stepparent, or is being adopted through an  
17 adoption entity, this paragraph does not prohibit the person  
18 who is contemplating adopting the child from paying, under ss.  
19 63.097 and 63.132, the actual prenatal care and living  
20 expenses of the mother of the child to be adopted, or from  
21 paying, under ss. 63.097 and 63.132, the actual living and  
22 medical expenses of ~~the such~~ mother under these sections ~~for a~~  
23 ~~reasonable time, not to exceed 6 weeks, if medical needs~~  
24 ~~require such support, after the birth of the minor.~~

25           (f) Except an adoption agency or intermediary entity,  
26 to charge or accept any fee or compensation of any nature from  
27 anyone for making a referral in connection with an adoption or  
28 for providing adoption services, facilitating, matching, or  
29 placement services.

30           (g) Except an adoption agency or intermediary entity,  
31 to advertise or offer to the public, in any way, by any medium

1 | whatever that a minor is available for adoption or that a  
2 | minor is sought for adoption; and, further, it is unlawful for  
3 | any person to publish or broadcast any such advertisement  
4 | without including a Florida license number of the agency or  
5 | attorney placing the advertisement.

6 |         (2)(a) It is unlawful for any person under this  
7 | chapter to:

- 8 |             1. Knowingly provide false information; or
- 9 |             2. Knowingly withhold material information.

10 |         (b) It is unlawful for a parent, with the intent to  
11 | defraud, to accept benefits related to the same pregnancy from  
12 | more than one adoption entity without disclosing that fact to  
13 | each entity.

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

19 |  
20 | Any person who willfully violates any provision of this  
21 | subsection commits a misdemeanor of the second degree,  
22 | punishable as provided in s. 775.082 or s. 775.083. In  
23 | addition, the ~~such~~ person is liable for damages caused by the  
24 | ~~such~~ acts or omissions, including reasonable attorney's fees  
25 | and costs. Damages may be awarded through restitution in any  
26 | related criminal prosecution or by filing a separate civil  
27 | action.

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



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

4           63.213 Preplanned adoption agreement.--

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

11           (5) Payment to agents, finders, and intermediaries,  
12 including attorneys and physicians, as a finder's fee for  
13 finding ~~volunteer mothers~~ or matching a volunteer mother and  
14 intended father and intended mother is prohibited and subject  
15 to the penalties and sanctions under 63.212 and 63.219.

16 Doctors, psychologists, attorneys, and other professionals may  
17 receive reasonable compensation for their professional  
18 services, such as providing medical services and procedures,  
19 legal advice in structuring and negotiating a preplanned  
20 adoption agreement, or counseling.

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

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

25           Section 31. Section 63.219, Florida Statutes, is  
26 amended to read:

27           63.219 Sanctions.--Upon a finding by the court that an  
28 adoption entity or any person has willfully violated any  
29 substantive provision of this chapter relative to the rights  
30 of the parties to the adoption and legality of the adoption  
31 process, the court is authorized to prohibit the adoption

1 entity or any person from placing a minor for adoption and  
2 enjoin them from engaging in further placement activities in  
3 the future in this state.

4 Section 32. 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, 2006, shall be governed by the  
9 law in effect at the time the petition was filed.

10 Section 33. 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 adoption  
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 adoption 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 34. 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 family foster homes. Once  
7 the department has determined that the standards for  
8 child-caring agencies, child-placing agencies, or family  
9 foster homes are in substantial compliance with minimum  
10 standards that similar facilities are required to meet, the  
11 standards do not have to be resubmitted to the department  
12 unless a change occurs in the standards. Any changes in the  
13 standards shall be provided to the department within 10 days  
14 of their adoption.

15 (10)

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

25 (11)

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

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

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

13 Section 35. Section 742.14, Florida Statutes, is  
14 amended to read:

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

25 Section 36. Subsection (2) of section 742.15, Florida  
26 Statutes, is amended to read:

27 742.15 Gestational surrogacy contract.--

28 (2) The commissioning couple shall enter into a  
29 contract with a gestational surrogate only when, within  
30 reasonable medical certainty as determined by a physician  
31 licensed under chapter 458 or chapter 459 or a physician

1 licensed under an equivalent law in the physician's state of  
2 practice:

3 (a) The commissioning mother cannot physically gestate  
4 a pregnancy to term;

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

7 (c) The gestation will cause a risk to the health of  
8 the fetus.

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

11 742.16 Expedited affirmation of parental status for  
12 gestational surrogacy.--

13 (6) The commissioning couple or their legal  
14 representative shall appear at the hearing on the petition. At  
15 the conclusion of the hearing, after the court has determined  
16 that a binding and enforceable gestational surrogacy contract  
17 has been executed pursuant to s. 742.15 and that there is no  
18 evidence that the gestational surrogate is the genetic mother  
19 ~~at least one member of the commissioning couple is the genetic~~  
20 ~~parent~~ of the child, the court shall enter an order stating  
21 that the commissioning couple are the legal parents of the  
22 child.

23 (7) When there is no evidence that the gestational  
24 surrogate is the genetic mother ~~at least one member of the~~  
25 ~~commissioning couple is the genetic parent~~ of the child, the  
26 commissioning couple shall be presumed to be the natural  
27 parents of the child.

28 Section 38. Section 742.18, Florida Statutes, is  
29 created to read:

30 742.18 Prohibited fees and acts.--  
31

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

3           (a) Receive compensation in advising or assisting in  
4 donor or gestational carrier arrangements.

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

9           (c) Publish or broadcast any advertisement except that  
10 an intended parent or parents, carrier, or donor seeks a  
11 donor, intended parent, or carrier for the person's or  
12 entity's own arrangement.

13           (d) Charge or accept any fee or compensation of any  
14 nature to or from anyone for making a referral in connection  
15 with a donor or carrier arrangement or for facilitating such  
16 an arrangement.

17           (e) Hold funds in escrow in a donor or gestational  
18 carrier arrangement.

19           (f) Assist in the commission of any act in paragraphs  
20 (a)-(e).

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

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

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

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

8 Section 39. This act shall take effect July 1, 2006.

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SENATE SUMMARY

1 Requires an adoption entity to diligently search for a  
2 person whose consent is required for the adoption.  
3 Provides that a judgment of adoption is voidable under  
4 certain circumstances. Provides that a court in this  
5 state retains jurisdiction until the adoption is  
6 finalized in this state or in another state. Provides  
7 that if an unmarried biological father fails to take the  
8 actions to establish a relationship with his child, his  
9 parental interest may be lost. Requires the adoption  
10 entity to provide certain information to the Department  
11 of Health. Provides that if a putative father fails to  
12 report a change of address to the Florida Putative Father  
13 Registry, the failure to do so is not a valid defense  
14 based upon lack of notice. Provides that an adoption  
15 agency may file a notice of an intended adoption plan at  
16 any time before the birth of the child or before placing  
17 the child in the adoptive home. Requires an adoption  
18 entity to make a good faith effort to locate the putative  
19 father. Specifies when an adoption entity has no further  
20 obligation to search for the putative father. Locates the  
21 proper venue in which to file a petition to terminate  
22 parental rights. Provides that notice and consent  
23 provisions do not apply in certain cases. Limits  
24 revocation of a consent to adopt to 3 days if the child  
25 is older than 6 months of age. Authorizes a court to  
26 transfer a child to the prospective adoptive parents  
27 under certain circumstances. Provides procedures to  
28 terminate parental rights pending an adoption. Requires a  
29 person to answer the petition and to appear at the  
30 hearing for termination of parental rights. Requires the  
31 court to conduct an inquiry concerning the father of the  
child who is to be adopted. Requires that certain  
scientific testing to determine paternity complies with  
state law. Provides that the failure to file the adoption  
report of its intended placement does not constitute  
grounds to deny the petition for termination of parental  
rights or adoption. Identifies additional individuals who  
may perform a home study. Revises provisions requiring  
that a certified copy of a judgment terminating parental  
rights be filed at the time the petition is filed.  
Provides that certain information may be removed from the  
petition. Provides that certain licensed professionals  
may conduct the final home investigation. Requires the  
adoption entity or petitioner to file an affidavit under  
the Uniform Child Custody Jurisdictional and Enforcement  
Act. Requires the clerk of court to transmit a certified  
statement of the adoption to the state where the child  
was born. Authorizes the birth parent to release his or  
her name under certain circumstances. Authorizes a court  
to permit certain entities to contact a birth parent for  
certain purposes. Provides requirements for the release  
of an original sealed birth certificate. Grants rights of  
inheritance when a judgment of adoption has been entered.  
Provides that the interest that gives a person standing  
to set aside an adoption must be direct, financial, and  
immediate. Requires the courts of this state to recognize  
decrees of termination of parental rights and adoptions  
from other states and countries. Prohibits an attorney

1 | from representing the volunteer mother and the intended  
2 | mother in a pre-planned adoption arrangement. Provides  
3 | penalties and sanctions for payment of finder's fees in  
4 | certain pre-planned adoption agreements. Redefines the  
5 | term "fertility technique." Provides for participation by  
6 | adoption intermediaries in the adoption program for  
7 | special needs children administered by the Department of  
8 | Children and Family Services. Provides that licensing  
9 | provisions do not apply to certain licensed child-placing  
10 | agencies. Provides that an embryo donor relinquishes all  
11 | parental rights and obligations to the embryo or the  
12 | resulting children at the time of the donation.  
13 | Authorizes a physician to advise a commissioning couple  
14 | concerning a gestational surrogate. Revises requirements  
15 | for affirmation of parental status for gestational  
16 | surrogacy. Prohibits a person or entity, except certain  
17 | named persons, from doing certain specified acts or from  
18 | accepting a fee for finding, screening, matching, or  
19 | facilitating a donor or gestational carrier arrangement.  
20 | (See bill for details.)  
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