

1                                   A bill to be entitled  
2           An act relating to the termination of parental rights;  
3           amending s. 39.812, F.S.; requiring a petition for  
4           adoption to be accompanied by a statement verifying that  
5           adoptive parents have received all information required to  
6           be disclosed; amending s. 49.011, F.S.; providing for  
7           service of process by publication for termination of  
8           parental rights under ch. 63, F.S.; amending s. 63.032,  
9           F.S.; redefining terms; amending s. 63.039, F.S.;  
10          requiring an adoption entity to provide adoption  
11          disclosure statements to persons whose consent is required  
12          for adoption; requiring attorney's fees and costs in  
13          certain actions to be awarded pursuant to the Florida  
14          Rules of Civil Procedures; amending s. 63.0425, F.S.;  
15          clarifying a grandparent's right to notice; amending s.  
16          63.054, F.S.; providing that an unmarried biological  
17          father who fails to register with the Florida Putative  
18          Father Registry before the filing of a petition for  
19          termination of parental rights may not file a paternity  
20          claim under ch. 742, F.S.; providing an exception from the  
21          time limitations for filing a paternity claim; providing  
22          that if a registrant fails to report a change of address,  
23          the adoption entity or adoption petitioner is not  
24          obligated to search further for the registrant; requiring  
25          a petitioner in a proceeding in which parental rights are  
26          terminated simultaneously with entry of final judgment of  
27          adoption to contact the Office of Vital Statistics for a  
28          search of the registry; providing procedures for searching

29 | the registry when termination of parental rights and an  
30 | adoption proceeding are adjudicated separately; amending  
31 | s. 63.062, F.S.; revising criteria for serving notice of  
32 | terminating parental rights to the father of a minor;  
33 | revising procedures for serving notice of intended  
34 | adoption plan; providing criteria for avoiding default on  
35 | providing consent to adoption; providing for the proper  
36 | venue to file a petition to terminate parental rights;  
37 | amending s. 63.063, F.S.; revising the standard for  
38 | compliance with laws relating to adoption; amending s.  
39 | 63.082, F.S.; revising the notice and consent requirements  
40 | to adoption to also exclude cases involving sexual  
41 | activity with certain minors; revising consent  
42 | requirements that apply to men; limiting the time period  
43 | for revoking consent to adopt a child older than 6 months  
44 | of age to 3 business days; revising requirements for  
45 | withdrawing a consent for adoption; amending s. 63.085,  
46 | F.S.; revising requirements for required disclosures by an  
47 | adoption entity; requiring that background information  
48 | concerning the child be revealed to prospective adoptive  
49 | parents; amending s. 63.087, F.S.; revising procedures for  
50 | terminating parental rights pending an adoption; providing  
51 | the proper venue in which to file a petition to terminate  
52 | parental rights; providing for joint petitions for  
53 | termination of parental rights and adoption; providing  
54 | that failure to appear at certain hearings constitutes  
55 | grounds for termination of parental rights; removing a  
56 | provision relating to the procedure for notifying a

57 | petitioner of a final hearing; amending s. 63.088, F.S.;

58 | providing that a mother's failure to identify an unmarried

59 | biological father is not a defense to a termination of

60 | parental rights; revising information relating to a

61 | court's inquiry about the father of the child who is to be

62 | adopted; requiring persons contacted by a petitioner or

63 | adoption entity to release certain information; providing

64 | that a judgment approving a diligent search is not subject

65 | to direct or collateral attack; amending s. 63.089, F.S.;

66 | revising provisions relating to service of notice and

67 | petition regarding termination of parental rights and

68 | consent to adoption; revising conditions for making a

69 | finding of abandonment; prohibiting a person who failed to

70 | establish parental rights from challenging a judgment

71 | terminating parental rights under certain circumstances;

72 | amending s. 63.092, F.S.; revising the conditions and

73 | timeframe for an adoption entity to report to the court

74 | the intent to place a minor for adoption; amending s.

75 | 63.102, F.S.; revising procedures for the filing of a

76 | petition for adoption; providing the proper venue where

77 | the petition may be filed; amending s. 63.122, F.S.;

78 | revising whose name may be removed from a petition under

79 | certain circumstances; amending s. 63.132, F.S.; providing

80 | additional exceptions to the requirement that the adoptive

81 | parent and the adoption entity file an affidavit itemizing

82 | all expenses and receipts; amending s. 63.135, F.S.;

83 | requiring the adoption entity or petitioner to file an

84 | affidavit under the Uniform Child Custody Jurisdiction and

HB 663

2008

85 Enforcement Act in a termination of parental rights  
86 proceeding; deleting information required to be submitted  
87 under oath to the court; amending s. 63.142, F.S.;  
88 requiring that if an adoption petition is dismissed, any  
89 further proceedings regarding the minor be brought in a  
90 separate custody action under ch. 61, F.S., a dependency  
91 action under ch. 39, F.S., or a paternity action under ch.  
92 742, F.S.; revising conditions under which a judgment  
93 terminating parental rights is voidable; amending s.  
94 63.192, F.S.; requiring the courts of this state to  
95 recognize decrees of termination of parental rights and  
96 adoptions from other states and countries; amending s.  
97 63.212, F.S.; revising acts that are unlawful pertaining  
98 to adoptions; creating s. 63.236, F.S.; providing that a  
99 petition for termination of parental rights filed before  
100 the effective date of the act is governed by the law in  
101 effect at the time the petition was filed; amending s.  
102 742.021, F.S.; requiring the clerk of court to issue  
103 certain notice in cases of complaints concerning  
104 determination of paternity; amending s. 742.10, F.S.;  
105 providing applicability of chs. 39 and 63, F.S., to  
106 jurisdiction and procedures for determination of paternity  
107 for children born out of wedlock; providing an effective  
108 date.

109  
110 Be It Enacted by the Legislature of the State of Florida:  
111

HB 663

2008

112 Section 1. Subsection (5) of section 39.812, Florida  
 113 Statutes, is amended to read:

114 39.812 Postdisposition relief; petition for adoption.--

115 (5) The petition for adoption must be filed in the  
 116 division of the circuit court which entered the judgment  
 117 terminating parental rights, unless a motion for change of venue  
 118 is granted pursuant to s. 47.122. A copy of the consent executed  
 119 by the department ~~as required under s. 63.062(7)~~ must be  
 120 attached to the petition, unless waived pursuant to s. 63.062(7)  
 121 ~~the court determines that such consent is being unreasonably~~  
 122 ~~withheld and provided that the petitioner has filed with the~~  
 123 ~~court a favorable preliminary adoptive home study performed by a~~  
 124 ~~licensed child placing agency, a child caring agency registered~~  
 125 ~~under s. 409.176, or a licensed professional or agency described~~  
 126 ~~in s. 61.20(2)~~. The petition must be accompanied by a statement,  
 127 signed by the prospective adoptive parents, acknowledging  
 128 receipt of all information required to be disclosed under s.  
 129 63.085 and a form provided by the department which details the  
 130 social and medical history of the child and each parent and  
 131 includes the social security number and date of birth for each  
 132 parent, if such information is available or readily obtainable.  
 133 The prospective adoptive parents ~~person seeking to adopt the~~  
 134 ~~child~~ may not file a petition for adoption until the judgment  
 135 terminating parental rights becomes final. An adoption  
 136 proceeding under this subsection is governed by chapter 63, ~~as~~  
 137 ~~limited under s. 63.037.~~

138 Section 2. Subsection (13) of section 49.011, Florida  
 139 Statutes, is amended to read:

140 49.011 Service of process by publication; cases in which  
 141 allowed.--Service of process by publication may be made in any  
 142 court on any party identified in s. 49.021 in any action or  
 143 proceeding:

144 (13) For termination of parental rights pursuant to part  
 145 IX of chapter 39 or chapter 63.

146 Section 3. Subsections (4) through (20) of section 63.032,  
 147 Florida Statutes, are amended to read:

148 63.032 Definitions.--As used in this chapter, the term:

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

153 (5)~~(4)~~ "Adult" means a person who is not a minor.

154 (6)~~(5)~~ "Agency" means any child-placing agency licensed by  
 155 the department pursuant to s. 63.202 to place minors for  
 156 adoption.

157 (7)~~(6)~~ "Child" means a minor son or daughter, whether by  
 158 birth or adoption.

159 (8)~~(7)~~ "Court" means a ~~any~~ circuit court of this state  
 160 and, if ~~when~~ the context requires, the court of any state that  
 161 is empowered to grant petitions for adoption.

162 (9)~~(8)~~ "Department" means the Department of Children and  
 163 Family Services.

164 (10)~~(9)~~ "Intermediary" means an attorney who is licensed  
 165 or authorized to practice in this state and who is placing or  
 166 intends to place a child for adoption, including placing  
 167 children born in another state with citizens of this state or

HB 663

2008

168 country or placing children born in this state with citizens of  
 169 another state or country.

170 (11)~~(10)~~ "Legal custody" has the meaning ascribed in s.  
 171 39.01.

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

173 (12) "Parent" means a woman who gives birth to a child or  
 174 a man whose consent to the adoption of the child would be  
 175 required under s. 63.062(1). If a child has been legally  
 176 adopted, the term "parent" means the adoptive mother or father  
 177 of the child. The term does not include an individual whose  
 178 parental relationship to the child has been legally terminated  
 179 or an alleged or prospective parent ~~has the same meaning~~  
 180 ~~ascribed in s. 39.01.~~

181 (13) "Person" includes a natural person, corporation,  
 182 government or governmental subdivision or agency, business  
 183 trust, estate, trust, partnership, or association, and any other  
 184 legal entity.

185 ~~(14) "Relative" means a person related by blood to the~~  
 186 ~~person being adopted within the third degree of consanguinity.~~

187 ~~(15) "To place" means the process of a parent or legal~~  
 188 ~~guardian surrendering a child for adoption and the prospective~~  
 189 ~~adoptive parents receiving and adopting the child, and includes~~  
 190 ~~all actions by any person or adoption entity participating in~~  
 191 ~~the process.~~

192 (14)~~(16)~~ "Placement" means the process of a parent or  
 193 legal guardian surrendering a child for adoption and the  
 194 prospective adoptive parents receiving and adopting the child

195 and all actions by any adoption entity participating in placing  
 196 the child.

197 (15)~~(17)~~ "Primarily lives and works outside Florida" means  
 198 that a person ~~who~~ lives and works outside this state at least 6  
 199 months and 1 day per ~~of the~~ year, is a member of the military  
 200 ~~personnel~~ who designates a state other than ~~designate~~ Florida as  
 201 his or her ~~their~~ place of residence in accordance with the  
 202 Servicemembers' Civil Relief Act, Pub. L. No. 108-189, or is a  
 203 citizen ~~employees~~ of the United States ~~Department of State~~  
 204 living in a foreign country who designates ~~designate~~ a state  
 205 other than Florida as his or her ~~their~~ place of residence.

206 (16) "Relative" means a person related by blood to the  
 207 person being adopted within the third degree of consanguinity.

208 (17)~~(18)~~ "Suitability of the intended placement" means  
 209 ~~includes~~ the fitness of the intended placement, with primary  
 210 consideration being given to the best interest of the child.

211 (18) "To place" means the process whereby a parent or  
 212 legal guardian surrenders a child for adoption and the  
 213 prospective adoptive parents receive and adopt the child, and  
 214 includes all actions by any person or adoption entity  
 215 participating in the process.

216 (19) "Unmarried biological father" means the child's  
 217 biological father who is not married to the child's mother at  
 218 the time of conception or birth of the child and who, before the  
 219 filing of a petition to terminate parental rights, has not been  
 220 adjudicated ~~declared~~ by a court of competent jurisdiction to be  
 221 the legal father of the child or has not executed an affidavit  
 222 pursuant to s. 382.013(2)(c).



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

227 Section 4. Paragraph (i) of subsection (1) of section  
 228 63.039, Florida Statutes, is amended, paragraph (j) is added to  
 229 that subsection, and subsection (3) of that section is amended,  
 230 to read:

231 63.039 Duty of adoption entity to prospective adoptive  
 232 parents; sanctions.--

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

239 (i) Obtain the written waiver of venue required under s.  
 240 63.062, if applicable ~~in cases in which venue for the~~  
 241 ~~termination of parental rights will be located in a county other~~  
 242 ~~than the county where a parent whose rights are to be terminated~~  
 243 ~~resides.~~

244 (j) Provide an adoption disclosure statement, as required  
 245 under s. 63.085(1), to all persons whose consent is required  
 246 under s. 63.062(1).

247 (3) The prevailing party in an action to set aside a  
 248 judgment terminating parental rights pending adoption or a  
 249 judgment of adoption may be awarded reasonable attorney's fees  
 250 and costs pursuant to Rule 1.540(b)(3), Florida Rules of Civil

251 Procedure. An award under this subsection must be paid by the  
 252 adoption entity or by the ~~any~~ applicable insurance carrier on  
 253 behalf of the adoption entity if the court finds that the acts  
 254 or omissions of the entity were the basis for the court's order  
 255 granting relief to the prevailing party.

256 Section 5. Section 63.0425, Florida Statutes, is amended  
 257 to read:

258 63.0425 Grandparent's right to notice ~~adopt~~.--

259 (1) If ~~When~~ a child has lived with a grandparent for at  
 260 least 6 months within the 24-month period immediately preceding  
 261 the filing of a petition for termination of parental rights  
 262 pending adoption, the adoption entity shall provide notice to  
 263 that grandparent of the hearing on the petition ~~for termination~~  
 264 ~~of parental rights pending adoption~~.

265 (2) This section does ~~shall~~ not apply if the placement for  
 266 adoption is the ~~a~~ result of the death of the child's parent and  
 267 a different preference is stated in the parent's will.

268 (3) This section does ~~shall~~ not apply in stepparent  
 269 adoptions.

270 (4) ~~Nothing in~~ This section does not ~~shall~~ contravene the  
 271 provisions of s. 63.142(4).

272 Section 6. Subsections (1), (6), and (7) of section  
 273 63.054, Florida Statutes, are amended to read:

274 63.054 Actions required by an unmarried biological father  
 275 to establish parental rights; Florida Putative Father  
 276 Registry.--

277 (1) In order to preserve the right to notice and consent  
 278 to an adoption under this chapter, an unmarried biological

HB 663

2008

279 father must, as the "registrant," file a notarized claim of  
280 paternity form with the Florida Putative Father Registry  
281 maintained by the Office of Vital Statistics of the Department  
282 of Health which includes ~~and shall include therein~~ confirmation  
283 of his willingness and intent to support the child for whom  
284 paternity is claimed in accordance with state law. The claim of  
285 paternity may be filed at any time before ~~prior to~~ the child's  
286 birth, but ~~a claim of paternity~~ may not be filed after the date  
287 a petition is filed for termination of parental rights. In each  
288 proceeding for termination of parental rights, the petitioner  
289 must ~~shall~~ submit to the Office of Vital Statistics ~~of the~~  
290 ~~Department of Health~~ a copy of the petition for termination of  
291 parental rights. The Office of Vital Statistics may ~~of the~~  
292 ~~Department of Health shall~~ not record a claim of paternity after  
293 the date ~~that~~ a petition for termination of parental rights is  
294 filed. The failure of an unmarried biological father to file a  
295 claim of paternity with the Registry before the date a petition  
296 for termination of parental rights is filed also bars him from  
297 filing a paternity claim under chapter 742.

298 (a) An unmarried biological father is excepted from the  
299 time limitations for filing a claim of paternity with the  
300 registry or for filing a paternity claim under chapter 742 if:

301 1. The mother identifies him to the adoption entity as a  
302 potential biological father by the date she executes a consent  
303 for adoption; and

304 2. He is served with a notice of intended adoption plan  
305 pursuant to s. 63.062(3) and the 30-day mandatory response date

306 is later than the date the petition for termination of parental  
 307 rights is filed with the court.

308 (b) If an unmarried biological father falls within the  
 309 exception provided by paragraph (a), the petitioner shall also  
 310 submit to the Office of Vital Statistics a copy of the notice of  
 311 intended adoption plan and proof of service of the notice on the  
 312 potential biological father.

313 (c) An unmarried biological father who falls within the  
 314 exception provided by paragraph (a), may not file a claim of  
 315 paternity with the registry or a paternity claim under chapter  
 316 742 after the 30-day mandatory response date to the notice of  
 317 intended adoption plan has expired. The Office of Vital  
 318 Statistics may not record a claim of paternity 30 days after  
 319 service of the notice of intended adoption plan.

320 (6) It is the obligation of the registrant or, if  
 321 designated under subsection (4), his designated agent or  
 322 representative to notify and update the Office of Vital  
 323 Statistics of any change of address or change in the designation  
 324 of an agent or representative. The failure of a registrant, or  
 325 designated agent or representative, to report any such change is  
 326 at the registrant's own risk and may shall not serve as a ~~valid~~  
 327 defense based upon lack of notice, and the adoption entity or  
 328 petitioner has no further obligation to search for the  
 329 registrant unless the person petitioning for termination of  
 330 parental rights or adoption has actual ~~or constructive~~ notice of  
 331 the registrant's address and whereabouts from another source.

332 (7) In each proceeding for termination of parental rights  
 333 or each adoption proceeding in which parental rights are being

334 terminated simultaneously with entry of the final judgment of  
 335 adoption, as in a stepparent and relative adoption filed under  
 336 this chapter, the petitioner must contact the Office of Vital  
 337 Statistics ~~of the Department of Health~~ by submitting an  
 338 application for a search of the Florida Putative Father  
 339 Registry. The petitioner must ~~shall~~ provide the same  
 340 information, if known, on the search application form that ~~which~~  
 341 the registrant furnished ~~is required to furnish~~ under subsection  
 342 (3). Thereafter, the Office of Vital Statistics shall ~~must~~ issue  
 343 a certificate signed by the State Registrar certifying:

- 344 (a) The identity and contact information, if any, for each
- 345 registered unmarried biological father whose information matches
- 346 the search request sufficiently so that such person may be
- 347 considered a possible father of the subject child; or
- 348 (b) That a diligent search has been made of the ~~registry~~
- 349 ~~of~~ registrants who may be the unmarried biological father of the
- 350 subject child and that no matching registration has been located
- 351 in the registry.

352

353 The ~~This~~ certificate must be filed with the court in the  
 354 proceeding to terminate parental rights or the adoption  
 355 proceeding. If a termination of parental rights and an adoption  
 356 proceeding are being adjudicated separately ~~simultaneously~~, the  
 357 Florida Putative Father Registry need only be searched for the  
 358 termination of parental rights proceeding ~~once~~.

359 Section 7. Paragraph (b) of subsection (1) and subsections  
 360 (3), (7), and (9) of section 63.062, Florida Statutes, are  
 361 amended to read:

362 63.062 Persons required to consent to adoption; affidavit  
 363 of nonpaternity; waiver of venue.--

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

369 (b) The father of the minor, if:

370 1. The minor was conceived or born while the father was  
 371 married to the mother;

372 2. The minor is his child by adoption;

373 3. The minor has been adjudicated ~~established~~ by the court  
 374 ~~proceeding~~ to be his child by the date a petition is filed for  
 375 termination of parental rights;

376 4. He has filed an affidavit of paternity pursuant to s.  
 377 382.013(2)(c) by the date a petition is filed for termination of  
 378 parental rights; or

379 5. In the case of an unmarried biological father, he has  
 380 acknowledged in writing, signed in the presence of a competent  
 381 witness, that he is the father of the minor, has filed such  
 382 acknowledgment with the Office of Vital Statistics of the  
 383 Department of Health within the required timeframes, and has  
 384 complied with the requirements of subsection (2).

385 (3)~~(a)~~ Pursuant to chapter 48, an adoption entity may  
 386 serve a notice of intended adoption plan upon any known and  
 387 locatable unmarried biological father who is identified to the  
 388 adoption entity by the mother by the date she signs her consent  
 389 for adoption or who is identified by a diligent search of the

HB 663

2008

390 Florida Putative Father Registry, or upon an entity whose  
391 consent is required. The notice may be served, ~~a notice of~~  
392 ~~intended adoption plan~~ at any time before the child's birth or  
393 before placing ~~prior to the placement~~ of the child in the  
394 adoptive home, ~~including prior to the birth of the child.~~ The  
395 recipient of the notice may waive service of process by  
396 executing a waiver and acknowledging receipt of the plan. The  
397 notice of intended adoption plan must specifically state that if  
398 the unmarried biological father desires to contest the adoption  
399 plan, he must, within 30 days after service, file with the  
400 court, ~~within 30 days after service,~~ a verified response that  
401 contains a pledge of commitment to the child in substantial  
402 compliance with subparagraph (2)(b)2. and ~~The notice of intended~~  
403 ~~adoption plan shall notify the unmarried biological father that~~  
404 ~~he must file a claim of paternity form with the Office of Vital~~  
405 ~~Statistics, within 30 days after service upon him~~ and must  
406 provide the adoption entity with a copy of the verified response  
407 filed with the court and the claim of paternity form filed with  
408 the Office of Vital Statistics. The notice must also include  
409 instructions for submitting a claim of paternity form to the  
410 Office of Vital Statistics and the address to which the claim  
411 must be sent. If the party served with the notice of intended  
412 adoption plan is an entity whose consent is required, the notice  
413 must specifically state that the entity must file, within 30  
414 days after service, a verified response setting forth a legal  
415 basis for contesting the intended adoption plan, specifically  
416 addressing the best interest of the child.

HB 663

2008

417           (a) If the unmarried biological father or entity whose  
418 consent is required fails to timely and properly file a verified  
419 response with the court and, in the case of an unmarried  
420 biological father, a claim of paternity form with the Office of  
421 Vital Statistics ~~within 30 days after service upon that~~  
422 ~~unmarried biological father or entity whose consent is required,~~  
423 the court shall enter a default against any unmarried biological  
424 father or entity and the consent of that unmarried biological  
425 father or entity shall no longer be required under this chapter  
426 and that party shall be deemed to have waived any claim of  
427 rights to the child. To avoid a default, within 30 days after  
428 receipt of service of the notice of intended adoption plan:  
429           1. The unmarried biological father must:  
430           a. File a claim of paternity with the Florida Putative  
431 Father Registry maintained by the Office of Vital Statistics;  
432           b. File a verified response with the court which contains  
433 a pledge of commitment to the child in substantial compliance  
434 with subparagraph (2)(b)2.; and  
435           c. Provide support for the birth mother and child.  
436           2. The entity whose consent is required must file a  
437 verified response setting forth a legal basis for contesting the  
438 intended adoption plan, specifically addressing the best  
439 interest of the child. Each notice of intended adoption plan  
440 ~~served upon an unmarried biological father must include~~  
441 ~~instructions as to the procedure the unmarried biological father~~  
442 ~~must follow to submit a claim of paternity form to the Office of~~  
443 ~~Vital Statistics and the address to which the registration must~~  
444 ~~be directed.~~

Page 16 of 56

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

hb0663-00



HB 663

2008

445           (b) ~~If the birth mother identifies a man who she believes~~  
446 ~~is the unmarried biological father of her child, the adoption~~  
447 ~~entity may provide a notice of intended adoption plan pursuant~~  
448 ~~to paragraph (a).~~ If the mother identifies a potential unmarried  
449 biological father whose location is unknown, the adoption entity  
450 shall conduct a diligent search pursuant to s. 63.088. If, upon  
451 completion of a diligent search, the potential unmarried  
452 biological father's location remains unknown and a search of the  
453 Florida Putative Father Registry fails to reveal a match, the  
454 adoption entity shall request in the petition for termination of  
455 parental rights pending adoption that the court declare the  
456 diligent search to be in compliance with s. 63.088, and to  
457 ~~further declare~~ that the adoption entity has ~~shall~~ have no  
458 further obligation to provide notice to the potential unmarried  
459 biological father, and that the potential unmarried biological  
460 father's consent to the adoption is shall not be required.

461           (7) If parental rights to the minor have previously been  
462 terminated, the adoption entity with which the minor has been  
463 placed for subsequent adoption may provide consent to the  
464 adoption. In such case, no other consent is required. The  
465 consent of the department shall be waived upon a determination  
466 by the court that such consent is being unreasonably withheld  
467 and if, provided that the petitioner has filed with the court a  
468 favorable preliminary adoptive home study as required under s.  
469 63.092 performed by a licensed child placing agency, a child-  
470 earing agency registered under s. 409.176, or a licensed  
471 professional or agency described in s. 61.20(2).

472 (9) A petition for termination of parental rights must  
 473 ~~shall~~ be filed in the appropriate county as determined under s.  
 474 63.087(2). If ~~a the~~ parent ~~or parents~~ whose consent is required  
 475 objects ~~rights are to be terminated~~ ~~object~~ to venue in the  
 476 county where the action was filed, the court may transfer venue  
 477 to a proper venue consistent with this chapter and chapter 47  
 478 ~~the action to the county where the objecting parent or parents~~  
 479 ~~reside~~, unless the objecting parent has previously executed a  
 480 waiver of venue.

481 Section 8. Section 63.063, Florida Statutes, is amended to  
 482 read:

483 63.063 Responsibility of parents ~~each party~~ for ~~their own~~  
 484 actions; fraud or misrepresentation; contesting termination of  
 485 parental rights and adoption ~~statutory compliance~~.--

486 (1) Each parent of a child conceived or born outside of  
 487 marriage is responsible for his or her ~~own~~ actions and is not  
 488 excused from strict compliance with ~~the provisions~~ of this  
 489 chapter based upon any action, statement, or omission of the  
 490 other parent or a third party, except as provided in s.  
 491 63.062(2)(a).

492 (2) Any person injured by a fraudulent representation or  
 493 action in connection with an adoption may ~~is entitled to~~ pursue  
 494 civil or criminal penalties as provided by law. A fraudulent  
 495 representation is not a defense to compliance with the  
 496 requirements of this chapter and is not a basis for dismissing a  
 497 petition for termination of parental rights or a petition for  
 498 adoption, for vacating an adoption decree, or for granting  
 499 custody to the offended party. Custody and adoption

HB 663

2008

500 determinations must ~~shall~~ be based on the best interest of the  
501 child in accordance with s. 61.13.

502 (3) The Legislature finds no way to remove all risk of  
503 fraud or misrepresentation in adoption proceedings and has  
504 provided a method for absolute protection of an unmarried  
505 biological father's rights through ~~by~~ compliance with ~~the~~  
506 ~~provisions of~~ this chapter. In balancing the rights and  
507 interests of the state and of all parties affected by fraud,  
508 including the child, the adoptive parents, and the unmarried  
509 biological father, the Legislature has determined that the  
510 unmarried biological father is in the best position to prevent  
511 or ameliorate the effects of fraud and, therefore, has the  
512 burden of preventing fraud.

513 (4) The Legislature finds that an unmarried biological  
514 father who resides in another state may not, in every  
515 circumstance, be reasonably presumed to know ~~of~~ and comply with  
516 the requirements of this chapter. Therefore, if all of the  
517 following requirements have been met, an unmarried biological  
518 father may contest a termination of parental rights or  
519 subsequent adoption and, before ~~prior to~~ entry of the final  
520 judgment of adoption, assert his interest in the child.  
521 Following such assertion, the court may, ~~in its discretion,~~  
522 proceed with an evidentiary hearing if:

523 (a) The unmarried biological father resides and has  
524 resided in another state where the unmarried mother was also  
525 located or resided.

526 (b) The unmarried mother left that state without notifying  
 527 or informing the unmarried biological father that she could be  
 528 located in this ~~the~~ state ~~of Florida~~.

529 (c) The unmarried biological father has, through every  
 530 reasonable means, attempted to locate the mother but does not  
 531 know or have reason to know that the mother is residing in this  
 532 ~~the~~ state ~~of Florida~~.

533 (d) The unmarried biological father has substantially  
 534 complied with the requirements of the state where the mother  
 535 previously resided or was located in order to protect and  
 536 preserve his parental interest and rights with regard to the  
 537 child.

538 Section 9. Paragraph (d) of subsection (1), paragraphs  
 539 (b), (c), and (e) of subsection (4), paragraphs (a), (b), and  
 540 (d) of subsection (6), and subsection (7) of section 63.082,  
 541 Florida Statutes, are amended to read:

542 63.082 Execution of consent to adoption or affidavit of  
 543 nonpaternity; family social and medical history; withdrawal of  
 544 consent.--

545 (1)

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

553 (4)

HB 663

2008

554 (b) A consent to the adoption of a minor who is to be  
555 placed for adoption may ~~shall not~~ be executed by the birth  
556 mother ~~sooner than~~ 48 hours after the minor's birth or the day  
557 the birth mother is ~~has been~~ notified in writing, either on her  
558 patient chart or in release paperwork, that she is fit to be  
559 released from the licensed hospital or birth center, whichever  
560 is earlier. A consent by any man ~~a biological father or legal~~  
561 ~~father~~ may be executed at any time after the birth of the child.  
562 The ~~A consent executed under this paragraph~~ is valid upon  
563 execution and may be withdrawn only if the court finds that it  
564 was obtained by fraud or duress.

565 (c) If ~~When~~ the minor to be adopted is older than 6 months  
566 of age at the time of the execution of the consent, the consent  
567 to adoption is valid upon execution; however, it is subject to a  
568 ~~3-day~~ revocation period of 3 business days ~~or may be revoked at~~  
569 ~~any time prior to the placement of the minor with the~~  
570 ~~prospective adoptive parents, whichever is later. If a consent~~  
571 ~~has been executed, this subsection may not be construed to~~  
572 ~~provide a birth parent with more than 3 days to revoke the~~  
573 ~~consent once the child has been placed with the prospective~~  
574 ~~adoptive parents.~~

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

578  
579 CONSENT TO ADOPTION  
580

581 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT  
 582 HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH  
 583 THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE  
 584 PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A  
 585 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE  
 586 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR  
 587 WITNESSES YOU SELECTED, IF ANY.

588  
 589 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE  
 590 FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS  
 591 CONSENT:

- 592
- 593 1. CONSULT WITH AN ATTORNEY;
  - 594 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE LEGALLY  
 595 PROHIBITED;
  - 596 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR FAMILY  
 597 MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
  - 598 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY PROHIBITED; AND
  - 599 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE AVAILABLE TO  
 600 YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

601  
 602 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO  
 603 YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE  
 604 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP  
 605 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED  
 606 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL  
 607 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE  
 608 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT

609 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF  
 610 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN  
 611 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT  
 612 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH  
 613 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY  
 614 BE EXECUTED. ANY MAN ~~A BIOLOGICAL FATHER~~ MAY EXECUTE A CONSENT  
 615 AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED  
 616 THE CONSENT, IT IS VALID, BINDING, AND IRREVOCABLE AND CANNOT BE  
 617 WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR  
 618 DURESS.

619  
 620 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR DURESS  
 621 AND YOU WISH TO REVOKE THAT CONSENT, YOU MUST:

- 622
- 623 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT YOU
  - 624 WISH TO WITHDRAW YOUR CONSENT; AND
  - 625 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD OR
  - 626 DURESS.

627

628 This statement of rights is not required for the adoption of a  
 629 relative, an adult, a stepchild, or a child older than 6 months  
 630 of age. A consent form for the adoption of a child older than 6  
 631 months of age at the time of the execution of consent must  
 632 contain a statement outlining the revocation rights provided in  
 633 paragraph (c).

634 (6) (a) If a ~~birth~~ parent executes a consent for placement  
 635 of a minor with an adoption entity or qualified prospective  
 636 adoptive parents and the minor child is in the custody of the

HB 663

2008

637 department, but parental rights have not yet been terminated,  
638 the adoption consent is ~~shall be~~ valid, binding, and enforceable  
639 by the court.

640 (b) Upon execution of the consent of the ~~birth~~ parent, the  
641 adoption entity may ~~shall be permitted to~~ intervene in the  
642 dependency case as a party in interest and must ~~shall~~ provide  
643 the court having jurisdiction over the minor, pursuant to the  
644 shelter or dependency petition filed by the department, ~~with~~ a  
645 copy of the preliminary home study of the prospective adoptive  
646 parents and any other evidence of the suitability of the  
647 placement. The preliminary home study must ~~shall~~ be maintained  
648 with strictest confidentiality within the dependency court file  
649 and the department's file. A preliminary home study must be  
650 provided to the court in all cases in which an adoption entity  
651 has intervened pursuant to this section.

652 (d) In determining whether the best interest of the child  
653 is ~~will be~~ served by transferring the custody of the minor child  
654 to the prospective adoptive parent selected by the ~~birth~~ parent,  
655 the court shall consider ~~give consideration to~~ the rights of the  
656 ~~birth~~ parent to determine an appropriate placement for the  
657 child, the permanency offered, the child's bonding with any  
658 potential adoptive home that the child has been residing in, and  
659 the importance of maintaining sibling relationships, if  
660 possible.

661 (7) If a person is seeking to withdraw consent for a child  
662 older than 6 months of age who has been placed with prospective  
663 adoptive parents:



664           (a) The person seeking to withdraw consent must, in  
 665 accordance with paragraph (4)(c), notify ~~A consent that is being~~  
 666 ~~withdrawn under paragraph (4)(c) may be withdrawn at any time~~  
 667 ~~prior to the minor's placement with the prospective adoptive~~  
 668 ~~parents or by notifying~~ the adoption entity in writing by  
 669 certified ~~United States~~ mail, return receipt requested, within  
 670 ~~not later than~~ 3 business days after execution of the consent.  
 671 As used in this subsection, the term "business day" means any  
 672 day on which the United States Postal Service accepts certified  
 673 mail for delivery.

674           (b) Upon receiving timely written notice from a person  
 675 whose consent to adoption is required of that person's desire to  
 676 ~~withdraw consent to adoption~~, the adoption entity must contact  
 677 the prospective adoptive parent to arrange a time certain for  
 678 the adoption entity to regain physical custody of the minor,  
 679 unless, upon a motion for emergency hearing by the adoption  
 680 entity, the court determines in written findings that placement  
 681 of the minor with the person who had legal or physical custody  
 682 of the child immediately before the child was placed for  
 683 adoption withdrawing consent may endanger the minor, ~~or that~~ the  
 684 person who desires to withdraw consent is ~~to the adoption would~~  
 685 ~~not be~~ required to consent to the adoption, ~~or~~ has been  
 686 determined to have abandoned the child, or is otherwise subject  
 687 to a determination that the person's consent is waived under  
 688 this chapter.

689           (c) If the court finds that the ~~such~~ placement may  
 690 endanger the minor, the court shall ~~must~~ enter an order  
 691 continuing the ~~regarding continued~~ placement of the minor with

HB 663

2008

692 the prospective adoptive parents pending further proceedings if  
693 they desire continued placement. If the prospective adoptive  
694 parents do not desire continued placement, the order must ~~shall~~  
695 include, but need not be limited to, a determination of whether  
696 temporary placement in foster care with the person who had legal  
697 or physical custody of the child immediately before placing the  
698 child for adoption or with a relative is in the best interest of  
699 the child and ~~is appropriate,~~ whether an investigation by the  
700 department is recommended, and whether a relative is available  
701 for the temporary placement.

702 (d) If the person withdrawing consent claims to be the  
703 father of the minor but has not been established to be the  
704 father by marriage, court order, or scientific testing, the  
705 court may order scientific paternity testing and reserve ruling  
706 on removal of the minor until the results of such testing have  
707 been filed with the court.

708 (e) The adoption entity must return the minor within 3  
709 business days after timely and proper notification of the  
710 withdrawal of consent or after the court determines that  
711 withdrawal is valid and binding upon consideration of an  
712 emergency motion, as filed pursuant to paragraph (b), to the  
713 physical custody of the person withdrawing consent or the person  
714 directed by the court. If the person seeking to ~~validly~~ withdraw  
715 consent claims to be the father of the minor but has not been  
716 established to be the father by marriage, court order, or  
717 scientific testing, the adoption entity may return the minor to  
718 the care and custody of the mother, if she desires such

719 placement, and she ~~the mother~~ is not otherwise prohibited by law  
 720 from having custody of the child.

721 (f) Following the revocation period for withdrawal of  
 722 consent described in paragraph (a), or the placement of the  
 723 child with the prospective adoptive parents, whichever occurs  
 724 later, consent may be withdrawn only when the court finds that  
 725 the consent was obtained by fraud or duress.

726 (g) An affidavit of nonpaternity may be withdrawn only if  
 727 the court finds that the affidavit was obtained by fraud or  
 728 duress.

729 Section 10. Section 63.085, Florida Statutes, is amended  
 730 to read:

731 63.085 Disclosure by adoption entity.--

732 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE  
 733 ADOPTIVE PARENTS.--Within ~~Not later than~~ 14 days after a person  
 734 seeking to adopt a minor or a person seeking to place a minor  
 735 for adoption contacts an adoption entity in person or provides  
 736 the adoption entity with a mailing address, the entity must  
 737 provide a written disclosure statement to that person if the  
 738 entity agrees or continues to work with the ~~such~~ person. The ~~If~~  
 739 ~~an~~ adoption entity shall also provide the written disclosure to  
 740 the parent ~~is assisting in the effort to terminate the parental~~  
 741 ~~rights of a parent~~ who did not initiate ~~the~~ contact with the  
 742 adoption entity, ~~the written disclosure must be provided~~ within  
 743 14 days after that parent is identified and located. For  
 744 purposes of providing the written disclosure, a person is  
 745 considered to be seeking to place a minor for adoption if ~~when~~  
 746 that person has sought information or advice from the adoption

747 entity regarding the option of adoptive placement. The written  
 748 disclosure statement must be in substantially the following  
 749 form:

751 ADOPTION DISCLOSURE

752  
 753 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL  
 754 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR  
 755 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING  
 756 ADOPTION UNDER FLORIDA LAW:

757  
 758 1. The name, address, and telephone number of the adoption  
 759 entity providing this disclosure is:

760 Name:

761 Address:

762 Telephone Number:

763

764 2. The adoption entity does not provide legal representation or  
 765 advice to ~~birth~~ parents or anyone signing a consent for adoption  
 766 or affidavit of nonpaternity, and ~~birth~~ parents have the right  
 767 to consult with an attorney of their own choosing to advise  
 768 them.

769 3. With the exception of an adoption by a stepparent or  
 770 relative, a child cannot be placed into a prospective adoptive  
 771 home unless the prospective adoptive parents have received a  
 772 favorable preliminary home study, including criminal and child  
 773 abuse clearances.

774 4. A valid consent for adoption may not be signed by the birth  
 775 mother until 48 hours after the birth of the child, or the day  
 776 the birth mother is notified, in writing, that she is fit for  
 777 discharge from the licensed hospital or birth center. Any man ~~A~~  
 778 ~~putative father~~ may sign a valid consent for adoption at any  
 779 time after the birth of the child.

780 5. A consent for adoption signed before the child attains the  
 781 age of 6 months is binding and irrevocable from the moment it is  
 782 signed unless it can be proven in court that the consent was  
 783 obtained by fraud or duress. A consent for adoption signed after  
 784 the child attains the age of 6 months is valid from the moment  
 785 it is signed; however, it may be revoked ~~until the child is~~  
 786 ~~placed in an adoptive home, or~~ up to 3 days after it was signed,  
 787 ~~whichever period is longer.~~

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

790 7. An unmarried biological father must act immediately in order  
 791 to protect his parental rights. Section 63.062, Florida  
 792 Statutes, prescribes that any father seeking to establish his  
 793 right to consent to the adoption of his child must file a claim  
 794 of paternity with the Florida Putative Father Registry  
 795 maintained by the Office of Vital Statistics of the Department  
 796 of Health by the date a petition to terminate parental rights is  
 797 filed with the court, or within 30 days after receiving service  
 798 of a Notice of Intended Adoption Plan. If he receives a Notice  
 799 of Intended Adoption Plan, he must file a claim of paternity  
 800 with the Florida Putative Father Registry, file a parenting plan  
 801 with the court, and provide financial support to the mother or

802 child within 30 days following service. An unmarried biological  
 803 father's failure to timely respond to a Notice of Intended  
 804 Adoption Plan constitutes an irrevocable legal waiver of any and  
 805 all rights that the father may have to the child. A claim of  
 806 paternity registration form for the Florida Putative Father  
 807 Registry may be obtained from any local office of the Department  
 808 of Health, Office of Vital Statistics, the Department of  
 809 Children and Families, the Internet websites for these agencies,  
 810 and the offices of the clerks of the Florida circuit courts. The  
 811 claim of paternity form must be submitted to the Office of Vital  
 812 Statistics, Attention: Adoption Unit, P.O. Box 210,  
 813 Jacksonville, FL 32231.

814 ~~8.7.~~ There are alternatives to adoption, including foster care,  
 815 relative care, and parenting the child. There may be services  
 816 and sources of financial assistance in the community available  
 817 to ~~birth~~ parents if they choose to parent the child.

818 ~~9.8.~~ A ~~birth~~ parent has the right to have a witness of his or  
 819 her choice, who is unconnected with the adoption entity or the  
 820 adoptive parents, to be present and witness the signing of the  
 821 consent or affidavit of nonpaternity.

822 ~~10.9.~~ A ~~birth~~ parent 14 years of age or younger must have a  
 823 parent, legal guardian, or court-appointed guardian ad litem to  
 824 assist and advise the ~~birth~~ parent as to the adoption plan.

825 ~~11.10.~~ A ~~birth~~ parent has a right to receive supportive  
 826 counseling from a counselor, social worker, physician, clergy,  
 827 or attorney, ~~and such counseling would be beneficial to the~~  
 828 ~~birth parent.~~

HB 663

2008

829 ~~12.11.~~ The payment of living or medical expenses by the  
830 prospective adoptive parents before ~~prior to~~ the birth of the  
831 child does not, in any way, obligate the ~~birth~~ parent to sign  
832 the consent for adoption.

833 (2) DISCLOSURE TO ADOPTIVE PARENTS.--

834 (a) At the time that an adoption entity is responsible for  
835 selecting prospective adoptive parents for a born or unborn  
836 child whose parents are seeking to place the child for adoption  
837 or whose rights were terminated pursuant to chapter 39, the  
838 adoption entity must provide the prospective adoptive parents  
839 with information concerning the background of the child to the  
840 extent such information is disclosed to the adoption entity by  
841 the parents, legal custodian, or the department. This subsection  
842 applies only if the adoption entity identifies the prospective  
843 adoptive parents and supervises the physical placement of the  
844 child in the prospective adoptive parents' home. If any  
845 information cannot be disclosed because the records custodian  
846 failed or refused to produce the background information, the  
847 adoption entity has a duty to provide the information if it  
848 becomes available. An individual or entity contacted by an  
849 adoption entity to obtain the background information must  
850 release the requested information to the adoption entity without  
851 the necessity of a subpoena or a court order. In all cases, the  
852 prospective adoptive parents must receive all available  
853 information by the date of the final hearing on the petition for  
854 adoption. The information to be disclosed includes:

855 1. A family social and medical history form completed  
856 pursuant to s. 63.162(6).

HB 663

2008

857        2. The biological mother's medical records documenting her  
858 prenatal care and the birth and delivery of the child.

859        3. A complete set of the child's medical records  
860 documenting all medical treatment and care since the child's  
861 birth and before placement.

862        4. All mental health, psychological, and psychiatric  
863 records, reports, and evaluations concerning the child before  
864 placement.

865        5. The child's educational records, including all records  
866 concerning any special education needs of the child before  
867 placement.

868        6. Records documenting all incidents that required the  
869 department to provide services to the child, including all  
870 orders of adjudication of dependency or termination of parental  
871 rights issued pursuant to chapter 39, any case plans drafted to  
872 address the child's needs, all protective services  
873 investigations identifying the child as a victim, and all  
874 guardian ad litem reports filed with the court concerning the  
875 child.

876        7. Written information concerning the availability of  
877 adoption subsidies for the child, if applicable.

878        (b) When disclosing information pursuant to this  
879 subsection, the adoption entity must redact any confidential  
880 identifying information concerning the child's parents,  
881 siblings, and relatives, and perpetrators of crimes against the  
882 child or involving the child.

883        (3)-(2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity  
884 must obtain a written statement acknowledging receipt of the



HB 663

2008

885 disclosures ~~disclosure~~ required under subsections ~~subsection~~ (1)  
 886 and (2) and signed by the persons receiving the disclosure or,  
 887 if it is not possible to obtain such an acknowledgment, the  
 888 adoption entity must execute an affidavit stating why an  
 889 acknowledgment could not be obtained. If the disclosure was  
 890 delivered by certified ~~United States~~ mail, return receipt  
 891 requested, a return receipt signed by the person from whom  
 892 acknowledgment is required is sufficient to meet the  
 893 requirements of this subsection. A copy of the acknowledgment of  
 894 receipt of the disclosure must be provided to the person signing  
 895 it. A copy of the acknowledgment or affidavit executed by the  
 896 adoption entity in lieu of the acknowledgment must be maintained  
 897 in the file of the adoption entity. The original acknowledgment  
 898 or affidavit must be filed with the court.

899 (4) ~~(3)~~ REVOCATION OF CONSENT.--Failure to meet the  
 900 requirements of this section ~~subsection (1) or subsection (2)~~  
 901 does not constitute grounds for revocation of a consent to  
 902 adoption or withdrawal of an affidavit of nonpaternity unless  
 903 the extent and circumstances of such a failure result in a  
 904 material failure of fundamental fairness in the administration  
 905 of due process, or the failure constitutes or contributes  
 906 materially to fraud or duress in obtaining a consent to adoption  
 907 or affidavit of nonpaternity.

908 Section 11. Subsections (2), (3), and (6) of section  
 909 63.087, Florida Statutes, are amended to read:

910 63.087 Proceeding to terminate parental rights pending  
 911 adoption; general provisions.--

912 (2) VENUE.--

913 (a) A petition to terminate parental rights pending  
 914 adoption must be filed:

- 915 1. In the county where the child resides; or
- 916 2. ~~If the child does not reside in the State of Florida,~~  
 917 In the county where the adoption entity is located;
- 918 3. ~~In the county where the adoption entity is located; or~~
- 919 4. ~~If neither parent resides in the state, in the county~~  
 920 ~~where the adoption entity is located. The fact of the minor's~~  
 921 ~~presence within the state confers jurisdiction on the court in~~  
 922 ~~proceedings in the minor's case under this chapter, or to a~~  
 923 ~~parent or guardian if due notice has been given.~~

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

936 (c) If there is a transfer of venue, the court may  
 937 determine which party shall bear the cost of venue transfer.  
 938  
 939 For purposes of the hearing under this subsection, witnesses  
 940 located in another jurisdiction may testify by deposition or

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

941 testify by telephone, audiovisual means, or other electronic  
 942 means before a designated court or at another location.  
 943 Documentary evidence transmitted from another location by  
 944 technological means that do not produce an original writing may  
 945 not be excluded from evidence on an objection based on the means  
 946 of transmission. The court on its own motion may otherwise  
 947 prescribe the manner ~~in which~~ and the terms upon which the  
 948 testimony is taken.

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

962 (6) ANSWER AND APPEARANCE REQUIRED.--An answer to the  
 963 petition or any pleading requiring an answer must ~~shall~~ be filed  
 964 in accordance with the Florida Family Law Rules of ~~Civil~~  
 965 Procedure. Failure to file a written response ~~or~~ to ~~appear at~~  
 966 ~~the hearing on~~ the petition constitutes grounds upon which the  
 967 court may terminate parental rights. Failure to appear at the  
 968 hearing constitutes grounds upon which the court may terminate

969 parental rights. ~~The petitioner shall provide notice of the~~  
 970 ~~final hearing by United States mail to any person who has been~~  
 971 ~~served with the summons and petition for termination of parental~~  
 972 ~~rights within the specified time periods. Notwithstanding the~~  
 973 ~~filing of any answer or any pleading,~~ Any person present at the  
 974 hearing to terminate parental rights pending adoption whose  
 975 consent to adoption is required under s. 63.062 must:

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

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

981 Section 12. Subsections (1), (3), (4), and (5) of section  
 982 63.088, Florida Statutes, are amended to read:

983 63.088 Proceeding to terminate parental rights pending  
 984 adoption; notice and service; diligent search.--

985 (1) NOTICE REQUIRED.--An unmarried biological father, by  
 986 virtue of the fact that he has engaged in a sexual relationship  
 987 with a woman, is deemed to be on notice that a pregnancy and an  
 988 adoption proceeding regarding that child may occur and that he  
 989 has a duty to protect his own rights and interest. He is,  
 990 therefore, entitled to notice of a birth or adoption proceeding  
 991 with regard to that child only as provided in this chapter. If a  
 992 mother fails to identify an unmarried biological father to the  
 993 adoption entity by the date she signs her consent for adoption,  
 994 the unmarried biological father's claim that he did not receive  
 995 actual notice of the adoption proceeding is not a defense to the  
 996 termination of his parental rights.

997           (3) LOCATION AND IDENTITY KNOWN.--Before the court may  
 998 determine that a minor is available for adoption, ~~and in~~  
 999 ~~addition to the other requirements set forth in this chapter,~~  
 1000 each person whose consent is required under s. 63.062, who has  
 1001 not executed a consent for adoption or an affidavit of  
 1002 nonpaternity, and whose location and identity have been  
 1003 determined by compliance with the procedures in this section  
 1004 must be personally served, pursuant to chapter 48, at least 20  
 1005 days before the hearing with a copy of the petition to terminate  
 1006 parental rights pending adoption and with notice in  
 1007 substantially the following form:

1008  
 1009                                   NOTICE OF PETITION AND HEARING  
 1010                                   TO TERMINATE PARENTAL RIGHTS  
 1011                                   PENDING ADOPTION

1012  
 1013 A petition to terminate parental rights pending adoption has  
 1014 been filed. A copy of the petition is being served with this  
 1015 notice. There will be a hearing on the petition to terminate  
 1016 parental rights pending adoption on (date) at (time)  
 1017 before (judge) at (location, including complete name and  
 1018 street address of the courthouse) . The court has set aside  
 1019 (amount of time) for this hearing.

1020  
 1021 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO TIMELY FILE A  
 1022 WRITTEN RESPONSE TO THIS NOTICE AND THE PETITION WITH THE COURT  
 1023 AND ~~OR~~ TO APPEAR AT THIS HEARING CONSTITUTES GROUNDS UPON WHICH

1024 THE COURT SHALL END ANY PARENTAL RIGHTS YOU MAY HAVE OR ASSERT  
 1025 REGARDING THE MINOR CHILD.

1026 (4) REQUIRED INQUIRY.--In proceedings initiated under s.  
 1027 63.087, the court shall ~~must~~ conduct an inquiry of the person  
 1028 who is placing the minor for adoption and of any relative or  
 1029 person having legal custody of the minor who is present at the  
 1030 hearing and likely to have the following information regarding  
 1031 the identity of:

1032 (a) Any person to whom the mother of the minor was married  
 1033 at any time when conception of the minor may have occurred or at  
 1034 the time of the birth of the minor;

1035 (b) Any man who has filed an affidavit of paternity  
 1036 pursuant to s. 382.013(2)(c) before the date that a petition for  
 1037 termination of parental rights is filed with the court ~~person~~  
 1038 ~~who has been declared by a court to be the father of the minor;~~

1039 (c) Any man who has adopted the minor;

1040 (d) Any man who has been adjudicated by a court as the  
 1041 father of the minor child before the date a petition for  
 1042 termination of parental rights is filed with the court ~~with whom~~  
 1043 ~~the mother was cohabiting at any time when conception of the~~  
 1044 ~~minor may have occurred; and~~

1045 (e) Any man whom the mother identified to the adoption  
 1046 entity as a potential biological father before the date she  
 1047 signed the consent for adoption ~~person who has acknowledged or~~  
 1048 ~~claimed paternity of the minor.~~

1049  
 1050 The information sought ~~required~~ under this subsection may be  
 1051 provided to the court in the form of a sworn affidavit by a

1052 person having personal knowledge of the facts, addressing each  
 1053 inquiry enumerated in this subsection, except that, if the  
 1054 inquiry identifies a father under paragraph (a), paragraph (b),  
 1055 or paragraph (c), the inquiry may ~~shall~~ not continue further.  
 1056 The inquiry required under this subsection may be conducted  
 1057 before the birth of the minor.

1058 (5) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry by  
 1059 the court under subsection (4) identifies any person ~~whose~~  
 1060 ~~consent to adoption is required under s. 63.062 and~~ who has not  
 1061 executed a consent to adoption or an affidavit of nonpaternity,  
 1062 and the location of the person ~~from whom consent is required~~ is  
 1063 unknown, the adoption entity must conduct a diligent search for  
 1064 that person which must include inquiries concerning:

1065 (a) The person's current address, or any previous address,  
 1066 through an inquiry of the United States Postal Service through  
 1067 the Freedom of Information Act;

1068 (b) The last known employment of the person, including the  
 1069 name and address of the person's employer;

1070 ~~(c) Regulatory agencies, including those regulating~~  
 1071 ~~licensing in the area where the person last resided;~~

1072 (c) ~~(d)~~ Names and addresses of relatives to the extent they  
 1073 ~~such~~ can be reasonably obtained from the petitioner or other  
 1074 sources, contacts with those relatives, and inquiry as to the  
 1075 person's last known address. The petitioner must ~~shall~~ pursue  
 1076 any leads to ~~of~~ any addresses where ~~to which~~ the person may have  
 1077 moved;

1078 (d) ~~(e)~~ Information as to whether or not the person may  
 1079 have died and, if so, the date and location;

- 1080        ~~(e)-(f)~~ Telephone listings in the area where the person
- 1081 last resided;
- 1082        ~~(f)-(g)~~ Inquiries of law enforcement agencies in the area
- 1083 where the person last resided;
- 1084        ~~(g)-(h)~~ Highway patrol records in the state where the
- 1085 person last resided;
- 1086        ~~(h)-(i)~~ Department of Corrections records in the state
- 1087 where the person last resided;
- 1088        ~~(i)-(j)~~ Hospitals in the area where the person last
- 1089 resided;
- 1090        ~~(j)-(k)~~ Records of utility companies, including water,
- 1091 sewer, cable television, and electric companies, in the area
- 1092 where the person last resided;
- 1093        ~~(k)-(l)~~ Records of the Armed Forces of the United States as
- 1094 to whether there is any information as to the person;
- 1095        ~~(l)-(m)~~ Records of the tax assessor and tax collector in
- 1096 the area where the person last resided; and
- 1097        ~~(m)-(n)~~ Search of one Internet databank locator service.

1099 A person contacted by a petitioner or adoption entity requesting  
 1100 information under this subsection must release the requested  
 1101 information to the petitioner or adoption entity without the  
 1102 necessity of a subpoena or a court order, except when prohibited  
 1103 by law. An affidavit of diligent search conducted in accordance  
 1104 with this section executed by the petitioner and the adoption  
 1105 entity must be filed with the court confirming completion of  
 1106 each aspect of the diligent search enumerated in this subsection  
 1107 and specifying the results. The diligent search required under



1108 ~~this subsection~~ may be conducted before the birth of the minor.  
 1109 A judgment terminating parental rights and approving a diligent  
 1110 search that fails to locate a person is valid and is not subject  
 1111 to direct or collateral attack because the mother failed or  
 1112 refused to provide the adoption entity with sufficient  
 1113 information to locate the person.

1114 Section 13. Subsections (2), (3), (4), and (6), paragraph  
 1115 (a) of subsection (7), and subsection (8) of section 63.089,  
 1116 Florida Statutes, are amended to read:

1117 63.089 Proceeding to terminate parental rights pending  
 1118 adoption; hearing; grounds; dismissal of petition; judgment.--

1119 (2) HEARING PREREQUISITES.--The court may hold the hearing  
 1120 only when:

1121 (a) For each person whose consent to adoption is required  
 1122 under s. 63.062:

1123 1. A consent under s. 63.082 has been executed and filed  
 1124 with the court;

1125 2. An affidavit of nonpaternity under s. 63.082 has been  
 1126 executed and filed with the court;

1127 3. Notice has been provided under ss. 63.087 and 63.088;  
 1128 or

1129 4. The certificate from the Office of Vital Statistics has  
 1130 been provided to the court stating that a diligent search has  
 1131 been made of the Florida Putative Father Registry created in s.  
 1132 63.054 and that no filing has been found pertaining to the  
 1133 father of the child in question or, if a filing is found,  
 1134 stating the name of the putative father and the time and date of  
 1135 the filing.

HB 663

2008

1136 (b) For each notice and petition that must be served under  
 1137 ss. 63.087 and 63.088:

1138 1. At least 20 days have elapsed since the date of  
 1139 personal service and an affidavit of service has been filed with  
 1140 the court;

1141 2. At least 30 days have elapsed since the first date of  
 1142 publication of constructive service and an affidavit of service  
 1143 has been filed with the court; or

1144 3. An affidavit of nonpaternity, consent for adoption, or  
 1145 other document that ~~which~~ affirmatively waives service has been  
 1146 executed and filed with the court. ~~†~~

1147 (c) The minor named in the petition has been born. ~~†~~ ~~and~~

1148 (d) The petition contains all information required under  
 1149 s. 63.087 and all affidavits of inquiry, diligent search, and  
 1150 service required under s. 63.088 have been obtained and filed  
 1151 with the court.

1152 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING  
 1153 ADOPTION.--The court may enter a judgment terminating parental  
 1154 rights pending adoption if the court determines by clear and  
 1155 convincing evidence, supported by written findings of fact, that  
 1156 each person whose consent to adoption is required under s.  
 1157 63.062:

1158 (a) Has executed a valid consent under s. 63.082 and the  
 1159 consent was obtained according to the requirements of this  
 1160 chapter;

1161 (b) Has executed an affidavit of nonpaternity and the  
 1162 affidavit was obtained according to the requirements of this  
 1163 chapter;

1164 (c) Has been served with a notice of the intended adoption  
 1165 plan in accordance with the provisions of s. 63.062(3) and has  
 1166 failed to respond within the designated time period;

1167 (d) Has been properly served notice of the proceeding in  
 1168 accordance with the requirements of this chapter and has failed  
 1169 to file a written answer or appear at the evidentiary hearing  
 1170 resulting in the judgment terminating parental rights pending  
 1171 adoption;

1172 (e) Has been properly served notice of the proceeding in  
 1173 accordance with the requirements of this chapter and has been  
 1174 determined under subsection (4) to have abandoned the minor ~~as~~  
 1175 ~~defined in s. 63.032;~~

1176 (f) Is a parent of the person to be adopted, which parent  
 1177 has been judicially declared incapacitated with restoration of  
 1178 competency found to be medically improbable;

1179 (g) Is a person who has legal custody of the person to be  
 1180 adopted, other than a parent, who has failed to respond in  
 1181 writing to a request for consent for a period of 60 days or,  
 1182 after examination of his or her written reasons for withholding  
 1183 consent, is found by the court to be withholding his or her  
 1184 consent unreasonably;

1185 (h) Has been properly served notice of the proceeding in  
 1186 accordance with the requirements of this chapter, but has been  
 1187 found by the court, after examining written reasons for the  
 1188 withholding of consent, to be unreasonably withholding his or  
 1189 her consent; or

1190 (i) Is the spouse of the person to be adopted who has  
 1191 failed to consent, and the failure of the spouse to consent to

1192 the adoption is excused by reason of prolonged and unexplained  
 1193 absence, unavailability, incapacity, or circumstances that are  
 1194 found by the court to constitute unreasonable withholding of  
 1195 consent.

1196 (4) FINDING OF ABANDONMENT.--A finding of abandonment  
 1197 resulting in a termination of parental rights must be based upon  
 1198 clear and convincing evidence that a parent or person having  
 1199 legal custody has abandoned the child in accordance with the  
 1200 definition contained in s. 63.032 ~~s. 63.032(1)~~. A finding of  
 1201 abandonment may also be based upon emotional abuse or a refusal  
 1202 to provide reasonable financial support, when able, to a birth  
 1203 mother during her pregnancy. ~~If, in the opinion of the court,~~  
 1204 ~~the efforts of a parent or person having legal custody of the~~  
 1205 ~~child to support and communicate with the child are only~~  
 1206 ~~marginal efforts that do not evince a settled purpose to assume~~  
 1207 ~~all parental duties, the court may declare the child to be~~  
 1208 ~~abandoned. In making this decision, the court may consider the~~  
 1209 ~~conduct of a father toward the child's mother during her~~  
 1210 ~~pregnancy.~~

1211 (a) In making a determination of abandonment at a hearing  
 1212 for termination of parental rights under ~~pursuant to~~ this  
 1213 chapter, the court shall ~~must~~ consider, among other relevant  
 1214 factors not inconsistent with this section:

1215 1. Whether the actions alleged to constitute abandonment  
 1216 demonstrate a willful disregard for the safety or welfare of the  
 1217 child or the unborn child;

1218 2. Whether the person alleged to have abandoned the child,  
 1219 while being able, failed to provide financial support;

1220           3. Whether the person alleged to have abandoned the child,  
1221 while being able, failed to pay for medical treatment; and

1222           4. Whether the amount of support provided or medical  
1223 expenses paid was appropriate, taking into consideration the  
1224 needs of the child and relative means and resources available to  
1225 the person alleged to have abandoned the child.

1226           (b) The child has been abandoned when the parent of a  
1227 child is incarcerated on or after October 1, 2001, in a federal,  
1228 state, or county ~~federal~~ correctional institution and:

1229           1. The period of time for which the parent has been or is  
1230 expected to be incarcerated will constitute a significant  
1231 ~~substantial~~ portion of the child's minority. In determining  
1232 whether the period of time is significant, the court shall  
1233 consider the child's age and the child's need for a permanent  
1234 and stable home. The period of time begins on the date that the  
1235 parent enters into incarceration ~~period of time before the child~~  
1236 ~~will attain the age of 18 years;~~

1237           2. The incarcerated parent has been determined by a ~~the~~  
1238 court of competent jurisdiction to be a violent career criminal  
1239 as defined in s. 775.084, a habitual violent felony offender as  
1240 defined in s. 775.084, convicted of child abuse as defined in s.  
1241 827.03, or a sexual predator as defined in s. 775.21; has been  
1242 convicted of first degree or second degree murder in violation  
1243 of s. 782.04 or a sexual battery that constitutes a capital,  
1244 life, or first degree felony violation of s. 794.011; or has  
1245 been convicted of a substantially similar ~~an~~ offense in another  
1246 ~~jurisdiction which is substantially similar to one of the~~  
1247 ~~offenses listed in this subparagraph.~~ As used in this section,

HB 663

2008

1248 the term "substantially similar offense" means any offense that  
 1249 is substantially similar in elements and penalties to one of  
 1250 those listed in this subparagraph, and that is in violation of a  
 1251 law of any other jurisdiction, whether that of another state,  
 1252 the District of Columbia, the United States or any possession or  
 1253 territory thereof, or any foreign jurisdiction; or

1254 3. The court determines by clear and convincing evidence  
 1255 that continuing the parental relationship with the incarcerated  
 1256 parent would be harmful to the child and, for this reason, ~~that~~  
 1257 termination of the parental rights of the incarcerated parent is  
 1258 in the best interest of the child.

1259 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING  
 1260 ADOPTION.--

1261 (a) The judgment terminating parental rights pending  
 1262 adoption must be in writing and contain findings of fact as to  
 1263 the grounds for terminating parental rights ~~pending adoption~~.

1264 (b) Within 7 days after filing, the court shall mail a  
 1265 copy of the judgment to the department. The clerk shall execute  
 1266 a certificate of the ~~such~~ mailing.

1267 (c) The judgment terminating parental rights pending  
 1268 adoption legally frees the child for subsequent adoption,  
 1269 adjudicates the child's status, and may not be challenged by a  
 1270 person claiming parental status who did not establish parental  
 1271 rights before the filing of the petition for termination, except  
 1272 as specifically provided in this chapter.

1273 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.--

1274 (a) A motion for relief from a judgment terminating  
 1275 parental rights must be filed with the court originally entering

HB 663

2008

1276 the judgment. The motion must be filed within a reasonable time,  
 1277 but not later than 1 year after the entry of the judgment  
 1278 ~~terminating parental rights.~~ An unmarried biological father does  
 1279 not have standing to seek relief from a judgment terminating  
 1280 parental rights if the mother did not identify him to the  
 1281 adoption entity before the date she signed a consent for  
 1282 adoption or if he was not located because the mother failed or  
 1283 refused to provide sufficient information to locate him.

1284 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and  
 1285 records pertaining to a petition to terminate parental rights  
 1286 pending adoption are related to the subsequent adoption of the  
 1287 minor and are subject to ~~the provisions of~~ s. 63.162. An  
 1288 unmarried biological father does not have standing to seek the  
 1289 court case number or access the court file if the mother did not  
 1290 identify him to the adoption entity before the date she signed  
 1291 the consent for adoption. The confidentiality provisions of this  
 1292 chapter do not apply to the extent information regarding persons  
 1293 or proceedings is ~~must be~~ made available as specified under s.  
 1294 63.088.

1295 Section 14. Subsection (1) of section 63.092, Florida  
 1296 Statutes, is amended to read:

1297 63.092 Report to the court of intended placement by an  
 1298 adoption entity; at-risk placement; preliminary study.--

1299 (1) REPORT TO THE COURT.--The adoption entity must report  
 1300 any intended placement of a minor for adoption with any person  
 1301 who is not a relative or a stepparent if the adoption entity ~~has~~  
 1302 ~~knowledge of, or participates in~~ the, ~~such~~ intended placement.

HB 663

2008

1303 The report must be made to the court before the minor is placed  
 1304 in the home or within 2 business days ~~48 hours~~ thereafter.

1305 Section 15. Subsections (1) and (2) of section 63.102,  
 1306 Florida Statutes, are amended to read:

1307 63.102 Filing of petition for adoption or declaratory  
 1308 statement; venue; proceeding for approval of fees and costs.--

1309 (1) PETITION FOR ADOPTION.--A petition for adoption may  
 1310 not be filed until after the entry of the judgment or decree  
 1311 terminating parental rights ~~pending adoption under this chapter,~~  
 1312 unless the adoptee is an adult or, the petitioner is a  
 1313 stepparent or a relative, ~~or the minor has been the subject of a~~  
 1314 ~~judgment terminating parental rights under chapter 39.~~ After a  
 1315 judgment terminating parental rights has been entered, a  
 1316 proceeding for adoption may be commenced by filing a petition  
 1317 entitled, "In the Matter of the Adoption of \_\_\_\_\_" in the  
 1318 circuit court. The person to be adopted shall be designated in  
 1319 the caption in the name by which he or she is to be known if the  
 1320 petition is granted. Except for a joint petition for the  
 1321 adoption of a stepchild, a relative, or an adult, any name by  
 1322 which the minor was previously known may not be disclosed in the  
 1323 petition, the notice of hearing, ~~or~~ the judgment of adoption, or  
 1324 the court docket as provided in s. 63.162(3).

1325 (2) VENUE.--A petition for adoption or for a declaratory  
 1326 statement as to the adoption contract must ~~shall~~ be filed in the  
 1327 county where the petition for termination of parental rights was  
 1328 filed or granted, ~~unless the court, in accordance with s.~~  
 1329 ~~47.122, changes the venue to the county where the petitioner or~~  
 1330 ~~petitioners or the minor resides or where the adoption entity~~



HB 663

2008

1331 ~~with which the minor has been placed~~ is located. The circuit  
 1332 court in this state shall ~~must~~ retain jurisdiction over the  
 1333 matter until a final judgment is entered on the adoption, either  
 1334 within or outside the state. The Uniform Child Custody  
 1335 Jurisdiction and Enforcement Act does not apply until a final  
 1336 judgment is entered on the adoption.

1337 Section 16. Subsection (3) of section 63.122, Florida  
 1338 Statutes, is amended to read:

1339 63.122 Notice of hearing on petition.--

1340 (3) Upon a showing by the petitioner or parent that the  
 1341 privacy, safety, or ~~and~~ welfare of the petitioner, parent, or  
 1342 minor may be endangered, the court may order that the names of  
 1343 the petitioner, parent, ~~or~~ minor, or all both, ~~to~~ be deleted  
 1344 from the notice of hearing and from the copy of the petition  
 1345 attached thereto if, ~~provided~~ the substantive rights of any  
 1346 person are ~~will~~ not ~~thereby~~ be affected.

1347 Section 17. Subsection (4) of section 63.132, Florida  
 1348 Statutes, is amended to read:

1349 63.132 Affidavit of expenses and receipts.--

1350 (4) This section does not apply to an adoption by a  
 1351 stepparent or an adoption of a relative or adult, the  
 1352 finalization of an adoption of a minor if the parental rights  
 1353 were terminated under chapter 39, or the domestication of an  
 1354 adoption decree of a minor child adopted in a foreign country.

1355 Section 18. Section 63.135, Florida Statutes, is amended  
 1356 to read:

1357 63.135 Information ~~under oath~~ to be submitted to the  
 1358 court.--

1359           (1) The adoption entity or petitioner must file an  
 1360 affidavit under the Uniform Child Custody Jurisdiction and  
 1361 Enforcement Act in the termination of parental rights ~~Each party~~  
 1362 ~~in an adoption proceeding,~~ in the first pleading or in an  
 1363 affidavit attached to that pleading, ~~shall give information~~  
 1364 ~~under oath as to the child's present address, the places where~~  
 1365 ~~the child has lived within the last 5 years, and the names and~~  
 1366 ~~present addresses of the persons with whom the child has lived~~  
 1367 ~~during that period. In the pleading or affidavit each party~~  
 1368 ~~shall further declare under oath whether:~~

1369           ~~(a) The party has participated as a party or witness or in~~  
 1370 ~~any other capacity in any other litigation concerning the~~  
 1371 ~~custody of the same child in this or any other state;~~

1372           ~~(b) The party has information of any custody proceeding~~  
 1373 ~~concerning the child pending in a court of this or any other~~  
 1374 ~~state; and~~

1375           ~~(c) The party knows of any person not a party to the~~  
 1376 ~~proceedings who has physical custody of the child or claims to~~  
 1377 ~~have custody or visitation rights with respect to the child.~~

1378           ~~(2) If the declaration as to any item specified in~~  
 1379 ~~subsection (1) is in the affirmative, the declarant shall give~~  
 1380 ~~additional information under oath as required by the court. The~~  
 1381 ~~court may examine the parties under oath about details of the~~  
 1382 ~~information furnished and other matters pertinent to the court's~~  
 1383 ~~jurisdiction and judgment of adoption.~~

1384           (2)(3) Each party has a continuing duty to inform the  
 1385 court of any custody proceeding concerning the child in this or

HB 663

2008

1386 any other state about which he or she obtained information  
 1387 during this proceeding.

1388 Section 19. Subsections (3) and (4) of section 63.142,  
 1389 Florida Statutes, are amended to read:

1390 63.142 Hearing; judgment of adoption.--

1391 (3) DISMISSAL.--

1392 (a) If the petition is dismissed, further proceedings, if  
 1393 any, regarding the minor must be brought in a separate custody  
 1394 action under chapter 61, a dependency action under chapter 39,  
 1395 or a paternity action under chapter 742 ~~the court shall~~  
 1396 ~~determine the person that is to have custody of the minor.~~

1397 (b) If the petition is dismissed, the court shall state  
 1398 with specificity the reasons for the dismissal.

1399 (4) JUDGMENT.--At the conclusion of the hearing, after the  
 1400 court determines that the date for a parent to file an appeal of  
 1401 a valid judgment terminating that parent's parental rights has  
 1402 passed and no appeal, pursuant to the Florida Rules of Appellate  
 1403 Procedure, is pending and that the adoption is in the best  
 1404 interest of the person to be adopted, a judgment of adoption  
 1405 shall be entered. A judgment terminating parental rights pending  
 1406 adoption is voidable and any later judgment of adoption of that  
 1407 minor is voidable if, upon a parent's motion for relief from  
 1408 judgment, the court finds that the adoption substantially fails  
 1409 to meet the requirements of this chapter. The motion must be  
 1410 filed within a reasonable time, but not later than 1 year after  
 1411 the date the judgment terminating parental rights was entered.

1412 Section 20. Section 63.192, Florida Statutes, is amended  
 1413 to read:

1414           63.192 Recognition of foreign judgment or decree affecting  
 1415 adoption.--A judgment ~~of court~~ terminating the relationship of  
 1416 parent and child or establishing the relationship by adoption,  
 1417 or a decree granting legal guardianship for purposes of  
 1418 adoption, issued pursuant to due process of law by a court or  
 1419 authorized body of any other jurisdiction within or without the  
 1420 United States shall be recognized in this state, and the rights  
 1421 and obligations of the parties ~~on matters within the~~  
 1422 ~~jurisdiction of this state~~ shall be determined as though the  
 1423 judgment or decree were issued by a court of this state. A  
 1424 judgment or decree of a court or authorized body terminating the  
 1425 relationship of a parent and child, whether independent,  
 1426 incorporated in an adoption decree, or incorporated in a legal  
 1427 guardianship order issued pursuant to due process of law of any  
 1428 other jurisdiction within or without the United States, shall be  
 1429 deemed to effectively terminate parental rights for purposes of  
 1430 a proceeding on a petition for adoption in this state. If a  
 1431 minor child has been made available for adoption in a foreign  
 1432 state or foreign country and the parental rights of the minor  
 1433 child's parent have been terminated or the child has been  
 1434 declared to be abandoned or orphaned, no additional termination  
 1435 of parental rights proceeding need occur, and the adoption may  
 1436 be finalized according to the procedures set forth in this  
 1437 chapter.

1438           Section 21. Subsection (2) of section 63.212, Florida  
 1439 Statutes, is amended to read:

1440           63.212 Prohibited acts; penalties for violation.--  
 1441           (2)(a) It is unlawful for:

1442            (a) Any person or adoption entity under this chapter to:  
 1443            1. Knowingly provide false information; or  
 1444            2. Knowingly withhold material information.

1445            ~~(b) It is unlawful for~~ A parent, with the intent to  
 1446 defraud, to accept benefits related to the same pregnancy from  
 1447 more than one adoption entity without disclosing that fact to  
 1448 each entity.

1449            ~~(c) It is unlawful for any person who knows that the~~  
 1450 ~~parent whose rights are to be terminated intends to object to~~  
 1451 ~~said termination to intentionally file the petition for~~  
 1452 ~~termination of parental rights in a county inconsistent with the~~  
 1453 ~~required venue under such circumstances.~~

1454  
 1455 Any person who willfully violates any provision of this  
 1456 subsection commits a misdemeanor of the second degree,  
 1457 punishable as provided in s. 775.082 or s. 775.083. In addition,  
 1458 the ~~such~~ person is liable for damages caused by such acts or  
 1459 omissions, including reasonable attorney's fees and costs.  
 1460 Damages may be awarded through restitution in any related  
 1461 criminal prosecution or by filing a separate civil action.

1462            Section 22. Section 63.236, Florida Statutes, is created  
 1463 to read:

1464            63.236 Petitions filed before July 1, 2009; governing  
 1465 law.--A petition for termination of parental rights filed before  
 1466 July 1, 2009, is governed by the law in effect at the time the  
 1467 petition was filed.

1468            Section 23. Section 742.021, Florida Statutes, is amended  
 1469 to read:

1470 742.021 Venue, process, complaint.--

1471 (1) The proceedings must ~~shall~~ be in the circuit court of  
 1472 the county where the plaintiff resides or ~~of~~ the county where  
 1473 the defendant resides.

1474 (2) The complaint shall assert ~~aver~~ sufficient facts  
 1475 charging the paternity of the child. Upon filing of a complaint  
 1476 seeking to determine paternity, the clerk of court shall issue a  
 1477 notice to each petitioner and to each respondent or defendant  
 1478 along with service of the petition. The notice must be in  
 1479 substantially the following form:

1480  
 1481 In order to preserve the right to notice and consent  
 1482 to the adoption of the child, an unmarried biological  
 1483 father must, as the "registrant," file a notarized  
 1484 claim of paternity form with the Florida Putative  
 1485 Father Registry maintained by the Office of Vital  
 1486 Statistics of the Department of Health which includes  
 1487 confirmation of his willingness and intent to support  
 1488 the child for whom paternity is claimed in accordance  
 1489 with state law. The claim of paternity may be filed at  
 1490 any time before the child's birth, but a claim of  
 1491 paternity may not be filed after the date a petition  
 1492 is filed for termination of parental rights.

1493  
 1494 (3) Process served on ~~directed to~~ the defendant must  
 1495 require ~~shall issue forthwith requiring~~ the defendant to file  
 1496 written defenses to the complaint in the same manner as suits in  
 1497 chancery. Upon application and proof under oath, the court may

1498 issue a writ of ne exeat against the defendant on such terms and  
 1499 conditions and conditioned upon bond in such amount as the court  
 1500 may determine.

1501 Section 24. Subsection (1) of section 742.10, Florida  
 1502 Statutes, is amended to read:

1503 742.10 Establishment of paternity for children born out of  
 1504 wedlock.--

1505 (1) Except as provided in chapters 39 and 63, this chapter  
 1506 provides the primary jurisdiction and procedures for the  
 1507 determination of paternity for children born out of wedlock. If  
 1508 ~~When~~ the establishment of paternity has been raised and  
 1509 determined within an adjudicatory hearing brought under the  
 1510 statutes governing inheritance, or dependency under workers'  
 1511 compensation or similar compensation programs; if, ~~or when~~ an  
 1512 affidavit acknowledging paternity or a stipulation of paternity  
 1513 is executed by both parties and filed with the clerk of the  
 1514 court; if, ~~or when~~ an affidavit, a notarized voluntary  
 1515 acknowledgment of paternity, or a voluntary acknowledgment of  
 1516 paternity that is witnessed by two individuals and signed under  
 1517 penalty of perjury as provided for in s. 382.013 or s. 382.016  
 1518 is executed by both parties; or if ~~when~~ paternity is  
 1519 adjudicated by the Department of Revenue as provided in s.  
 1520 409.256, such adjudication, affidavit, or acknowledgment  
 1521 constitutes the establishment of paternity for purposes of this  
 1522 chapter. If an ~~no~~ adjudicatory proceeding was not held, a  
 1523 notarized voluntary acknowledgment of paternity or voluntary  
 1524 acknowledgment of paternity, which ~~that~~ is witnessed by two  
 1525 individuals and signed under penalty of perjury as specified by

HB 663

2008

1526 s. 92.525(2), creates ~~shall create~~ a rebuttable presumption, as  
1527 defined by s. 90.304, of paternity and is subject to the right  
1528 of any signatory to rescind the acknowledgment within 60 days  
1529 after the date the acknowledgment was signed or the date of an  
1530 administrative or judicial proceeding relating to the child,  
1531 including a proceeding to establish a support order, in which  
1532 the signatory is a party, whichever is earlier. Both parents  
1533 must provide their social security numbers on any acknowledgment  
1534 of paternity, consent affidavit, or stipulation of paternity.  
1535 Except for affidavits under seal pursuant to ss. 382.015 and  
1536 382.016, the Office of Vital Statistics shall provide certified  
1537 copies of affidavits to the Title IV-D agency upon request.

1538 Section 25. This act shall take effect July 1, 2008.