

1 A bill to be entitled
2 An act relating to adoption; amending s. 39.802, F.S.;
3 requiring the Department of Children and Family
4 Services to inform the parents of a child of the
5 availability of private placement of the child with an
6 adoption entity in certain circumstances; amending s.
7 63.022, F.S.; revising legislative intent to delete
8 reference to reporting requirements for placements of
9 minors and exceptions; amending s. 63.032, F.S.;
10 revising definitions; amending s. 63.037, F.S.;
11 exempting adoption proceedings initiated under chapter
12 39, F.S., from a requirement for a search of the
13 Florida Putative Father Registry; amending s. 63.039,
14 F.S.; providing that all adoptions of minor children
15 require the use of an adoption entity that will assume
16 the responsibilities provided in specified provisions;
17 providing an exception; amending s. 63.0423, F.S.;
18 revising procedures with respect to surrendered
19 infants; providing that an infant who tests positive
20 for illegal drugs, narcotic prescription drugs,
21 alcohol, or other substances, but shows no other signs
22 of child abuse or neglect, shall be placed in the
23 custody of a licensed child-placing agency; providing
24 that a specified reporting requirement is not
25 superseded; providing that when the Department of
26 Children and Family Services is contacted regarding a
27 surrendered infant who does not appear to have been
28 the victim of actual or suspected child abuse or

29 neglect, it shall provide instruction to contact a
30 licensed child-placing agency and may not take custody
31 of the infant; providing an exception; revising
32 provisions relating to scientific testing to determine
33 the paternity or maternity of a minor; amending s.
34 63.0427, F.S.; prohibiting a court from increasing
35 contact between an adopted child and siblings, birth
36 parents, or other relatives without the consent of the
37 adoptive parent or parents; amending s. 63.052, F.S.;
38 deleting a requirement that a minor be permanently
39 committed to an adoption entity in order for the
40 entity to be guardian of the person of the minor;
41 limiting the circumstances in which an intermediary
42 may remove a child; providing that an intermediary
43 does not become responsible for a minor child's
44 medical bills that were incurred before taking
45 physical custody of the child; providing additional
46 placement options for a minor surrendered to an
47 adoption entity for subsequent adoption when a
48 suitable prospective adoptive home is not available;
49 amending s. 63.053, F.S.; requiring that an unmarried
50 biological father strictly comply with specified
51 provisions in order to protect his interests; amending
52 s. 63.054, F.S.; authorizing submission of an
53 alternative document to the Office of Vital Statistics
54 by the petitioner in each proceeding for termination
55 of parental rights; providing that by filing a claim
56 of paternity form the registrant expressly consents to

57 | paying for DNA testing; requiring that an alternative
58 | address designated by a registrant be a physical
59 | address; providing that the filing of a claim of
60 | paternity with the Florida Putative Father Registry
61 | does not relieve a person from compliance with
62 | specified requirements; amending s. 63.062, F.S.;
63 | revising requirements for when a minor's father must
64 | be served prior to termination of parental rights;
65 | requiring that an unmarried biological father comply
66 | with specified requirements in order for his consent
67 | to be required for adoption; revising such
68 | requirements; providing that the mere fact that a
69 | father expresses a desire to fulfill his
70 | responsibilities towards his child which is
71 | unsupported by acts evidencing this intent does not
72 | meet the requirements; providing for the sufficiency
73 | of an affidavit of nonpaternity; providing an
74 | exception to a condition to a petition to adopt an
75 | adult; amending s. 63.063, F.S.; conforming
76 | terminology; amending s. 63.082, F.S.; revising
77 | language concerning applicability of notice and
78 | consent provisions in cases in which the child is
79 | conceived as a result of a violation of criminal law;
80 | requiring notice to be provided to the father of a
81 | child alleged to be conceived as a result of a
82 | violation of criminal law if charges are not filed;
83 | providing that a criminal conviction is not required
84 | for the court to find that the child was conceived as

85 a result of a violation of criminal law; requiring an
86 affidavit of diligent search to be filed whenever a
87 person who is required to consent is unavailable
88 because the person cannot be located; providing that
89 in an adoption of a stepchild or a relative, a
90 certified copy of the death certificate of the person
91 whose consent is required may be attached to the
92 petition for adoption if a separate petition for
93 termination of parental rights is not being filed;
94 authorizing the execution of an affidavit of
95 nonpaternity before the birth of a minor in preplanned
96 adoptions; revising language of a consent to adoption;
97 providing that a home study provided by the adoption
98 entity shall be deemed to be sufficient except in
99 certain circumstances; providing for a hearing if an
100 adoption entity moves to intervene in a dependency
101 case; requiring the court to provide information to
102 prospective adoptive parents regarding parent training
103 classes in the community upon determining the child
104 dependent; requiring the department to file an
105 acknowledgement of receipt of information; requiring
106 the adoption entity to provide updates to the court at
107 specified intervals; requiring the court and the
108 department to advise a biological parent of the right
109 to participate in private adoption in all dependency
110 cases at the time the petition to terminate parental
111 rights is filed; revising language concerning seeking
112 to revoke consent to an adoption of a child older than

113 6 months of age; providing that if the consent of one
114 parent is set aside or revoked, any other consents
115 executed by the other parent or a third party whose
116 consent is required for the adoption of the child may
117 not be used by the parent who consent was revoked or
118 set aside to terminate or diminish the rights of the
119 other parent or third party; amending s. 63.085, F.S.;
120 revising language of an adoption disclosure statement;
121 requiring that a copy of a waiver by prospective
122 adoptive parents of receipt of certain records must be
123 filed with the court; amending s. 63.087, F.S.;
124 specifying that a failure to personally appear at a
125 proceeding to terminate parental rights constitutes
126 grounds for termination; amending s. 63.088, F.S.;
127 providing that in a termination of parental rights
128 proceeding if a required inquiry that identifies a
129 father who has been adjudicated by a court as the
130 father of the minor child before the date a petition
131 for termination of parental rights is filed the
132 inquiry must terminate at that point; amending s.
133 63.089, F.S.; specifying that it is a failure to
134 personally appear that provides grounds for
135 termination of parental rights in certain
136 circumstances; providing additional grounds upon which
137 a finding of abandonment may be made; revising
138 provisions relating to dismissal of petitions to
139 terminate parental rights; providing that contact
140 between a parent seeking relief from a judgment

141 terminating parental rights and a child may be awarded
142 only in certain circumstances; providing for placement
143 of a child in the event that a court grants relief
144 from a judgment terminating parental rights and no new
145 pleading is filed to terminate parental rights;
146 amending s. 63.092, F.S.; requiring that a signed copy
147 of the home study must be provided to the intended
148 adoptive parents who were the subject of the study;
149 amending s. 63.097, F.S.; providing guidelines for a
150 court considering a reasonable attorney fee associated
151 with adoption services; amending s. 63.152, F.S.;

152 authorizing an adoption entity to transmit a certified
153 statement of the entry of a judgment of adoption to
154 the state registrar of vital statistics; amending s.
155 63.162, F.S.; authorizing a birth parent to petition
156 that court to appoint an intermediary or a licensed
157 child-placing agency to contact an adult adoptee and
158 advise both of the availability of the adoption
159 registry and that the birth parent wishes to establish
160 contact; amending s. 63.167, F.S.; requiring that the
161 state adoption center provide contact information for
162 all adoption entities in a caller's county or, if no
163 adoption entities are located in the caller's county,
164 the number of the nearest adoption entity when
165 contacted for a referral to make an adoption plan;
166 amending s. 63.202, F.S.; revising terminology in
167 provisions relating to licensing by the department;
168 amending s. 63.212, F.S.; restricting who may place a

169 | paid advertisement or paid listing of the person's
170 | telephone number offering certain adoption services;
171 | requiring of publishers of telephone directories to
172 | include certain statements at the beginning of any
173 | classified heading for adoption and adoption services;
174 | providing requirements for such advertisements;
175 | providing criminal penalties for violations;
176 | prohibiting the offense of adoption deception by a
177 | person who is a birth mother or a woman who holds
178 | herself out to be a birth mother; providing criminal
179 | penalties; providing liability by violators for
180 | certain damages; amending s. 63.213, F.S.; providing
181 | that a preplanned adoption arrangement does not
182 | constitute consent of a mother to place her biological
183 | child for adoption until 48 hours following birth;
184 | providing that a volunteer mother's right to rescind
185 | her consent in a preplanned adoption applies only when
186 | the child is genetically related to her; revising the
187 | definitions of the terms "child," "preplanned adoption
188 | arrangement," and "volunteer mother"; amending s.
189 | 63.222, F.S.; providing that provisions designated as
190 | remedial may apply to any proceedings pending on the
191 | effective date of the provisions; amending s. 63.2325,
192 | F.S.; revising terminology relating to revocation of
193 | consent to adoption; providing an effective date.

194

195 | Be It Enacted by the Legislature of the State of Florida:

196

197 Section 1. Subsection (4) of section 39.802, Florida
 198 Statutes, is amended to read:

199 39.802 Petition for termination of parental rights;
 200 filing; elements.—

201 (4) A petition for termination of parental rights filed
 202 under this chapter must contain facts supporting the following
 203 allegations:

204 (a) That at least one of the grounds listed in s. 39.806
 205 has been met.

206 (b) That the parents of the child were informed of their
 207 right to counsel at all hearings that they attended and that a
 208 dispositional order adjudicating the child dependent was entered
 209 in any prior dependency proceeding relied upon in offering a
 210 parent a case plan as described in s. 39.806.

211 (c) That the manifest best interests of the child, in
 212 accordance with s. 39.810, would be served by the granting of
 213 the petition.

214 (d) That the parents of the child will be informed of the
 215 availability of private placement of the child with an adoption
 216 entity, as defined in s. 63.032.

217 Section 2. Paragraphs (e) through (m) of subsection (4) of
 218 section 63.022, Florida Statutes, are redesignated as paragraphs
 219 (d) through (l), respectively, and subsection (2) and present
 220 paragraph (d) of subsection (4) of that section are amended to
 221 read:

222 63.022 Legislative intent.—

223 (2) It is the intent of the Legislature that in every
 224 adoption, the best interest of the child should govern and be of

225 foremost concern in the court's determination. The court shall
 226 make a specific finding as to the best interests ~~interest~~ of the
 227 child in accordance with the provisions of this chapter.

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

230 ~~(d) All placements of minors for adoption are reported to~~
 231 ~~the Department of Children and Family Services, except relative,~~
 232 ~~adult, and stepparent adoptions.~~

233 Section 3. Subsections (1), (3), (12), (17), and (19) of
 234 section 63.032, Florida Statutes, are amended to read:

235 63.032 Definitions.—As used in this chapter, the term:

236 (1) "Abandoned" means a situation in which the parent or
 237 person having legal custody of a child, while being able, makes
 238 little or no provision for the child's support or ~~and~~ makes
 239 little or no effort to communicate with the child, which
 240 situation is sufficient to evince an intent to reject parental
 241 responsibilities. If, in the opinion of the court, the efforts
 242 of such parent or person having legal custody of the child to
 243 support and communicate with the child are only marginal efforts
 244 that do not evince a settled purpose to assume all parental
 245 duties, the court may declare the child to be abandoned. In
 246 making this decision, the court may consider the conduct of a
 247 father towards the child's mother during her pregnancy.

248 (3) "Adoption entity" means the department, ~~an agency,~~ a
 249 child-caring agency registered under s. 409.176, an
 250 intermediary, a Florida child-placing agency licensed under s.
 251 63.202, or a child-placing agency licensed in another state
 252 which is licensed ~~qualified~~ by the department to place children

253 | in the State of Florida.

254 | (12) "Parent" means a woman who gives birth to a child and
 255 | who is not a gestational surrogate as defined in s. 742.13 or a
 256 | man whose consent to the adoption of the child would be required
 257 | under s. 63.062(1). If a child has been legally adopted, the
 258 | term "parent" means the adoptive mother or father of the child.
 259 | The term does not include an individual whose parental
 260 | relationship to the child has been legally terminated or an
 261 | alleged or prospective parent.

262 | (17) "Suitability of the intended placement" means the
 263 | fitness of the intended placement, with primary consideration
 264 | being given to the best interests ~~interest~~ of the child.

265 | (19) "Unmarried biological father" means the child's
 266 | biological father who is not married to the child's mother at
 267 | the time of conception or on the date of the birth of the child
 268 | and who, before the filing of a petition to terminate parental
 269 | rights, has not been adjudicated by a court of competent
 270 | jurisdiction to be the legal father of the child or has not
 271 | filed ~~executed~~ an affidavit pursuant to s. 382.013(2)(c).

272 | Section 4. Section 63.037, Florida Statutes, is amended to
 273 | read:

274 | 63.037 Proceedings applicable to cases resulting from a
 275 | termination of parental rights under chapter 39.—A case in which
 276 | a minor becomes available for adoption after the parental rights
 277 | of each parent have been terminated by a judgment entered
 278 | pursuant to chapter 39 shall be governed by s. 39.812 and this
 279 | chapter. Adoption proceedings initiated under chapter 39 are
 280 | exempt from the following provisions of this chapter:

281 requirement for search of the Florida Putative Father Registry
 282 provided in s. 63.054(7), if a search was previously completed
 283 and documentation of the search is contained in the case file;
 284 disclosure requirements for the adoption entity provided in s.
 285 63.085(1); general provisions governing termination of parental
 286 rights pending adoption provided in s. 63.087; notice and
 287 service provisions governing termination of parental rights
 288 pending adoption provided in s. 63.088; and procedures for
 289 terminating parental rights pending adoption provided in s.
 290 63.089.

291 Section 5. Subsections (2) through (4) of section 63.039,
 292 Florida Statutes, are renumbered as subsections (3) through (5),
 293 respectively, and a new subsection (2) is added to that section
 294 to read:

295 63.039 Duty of adoption entity to prospective adoptive
 296 parents; sanctions.—

297 (2) With the exception of an adoption by a relative or
 298 stepparent, all adoptions of minor children require the use of
 299 an adoption entity that will assume the responsibilities
 300 provided in this section.

301 Section 6. Subsections (1), (2), (4), (7), (8), and (9) of
 302 section 63.0423, Florida Statutes, are amended to read:

303 63.0423 Procedures with respect to surrendered infants.—

304 (1) Upon entry of final judgment terminating parental
 305 rights, a licensed child-placing agency that takes physical
 306 custody of an infant surrendered at a hospital, emergency
 307 medical services station, or fire station pursuant to s. 383.50
 308 assumes ~~shall assume~~ responsibility for the all medical costs

309 and ~~all~~ other costs associated with the emergency services and
 310 care of the surrendered infant from the time the licensed child-
 311 placing agency takes physical custody of the surrendered infant.

312 (2) The licensed child-placing agency shall immediately
 313 seek an order from the circuit court for emergency custody of
 314 the surrendered infant. The emergency custody order shall remain
 315 in effect until the court orders preliminary approval of
 316 placement of the surrendered infant in the prospective home, at
 317 which time the prospective adoptive parents become guardians
 318 pending termination of parental rights and finalization of
 319 adoption or until the court orders otherwise. The guardianship
 320 of the prospective adoptive parents shall remain subject to the
 321 right of the licensed child-placing agency to remove the
 322 surrendered infant from the placement during the pendency of the
 323 proceedings if such removal is deemed by the licensed child-
 324 placing agency to be in the best interests ~~interest~~ of the
 325 child. The licensed child-placing agency may immediately seek to
 326 place the surrendered infant in a prospective adoptive home.

327 (4) The parent who surrenders the infant in accordance
 328 with s. 383.50 is presumed to have consented to termination of
 329 parental rights, and express consent is not required. Except
 330 when there is actual or suspected child abuse or neglect, the
 331 licensed child-placing agency shall not attempt to pursue,
 332 search for, or notify that parent as provided in s. 63.088 and
 333 chapter 49. For purposes of s. 383.50 and this section, an
 334 infant who tests positive for illegal drugs, narcotic
 335 prescription drugs, alcohol, or other substances, but shows no
 336 other signs of child abuse or neglect, shall be placed in the

337 custody of a licensed child-placing agency. Such a placement
338 does not eliminate the reporting requirement under s. 383.50(7).
339 When the department is contacted regarding an infant properly
340 surrendered under this section and s. 383.50, the department
341 shall provide instruction to contact a licensed child-placing
342 agency and may not take custody of the infant unless reasonable
343 efforts to contact a licensed child-placing agency to accept the
344 infant have not been successful.

345 (7) If a claim of parental rights of a surrendered infant
346 is made before the judgment to terminate parental rights is
347 entered, the circuit court may hold the action for termination
348 of parental rights ~~pending subsequent adoption~~ in abeyance for a
349 period of time not to exceed 60 days.

350 (a) The court may order scientific testing to determine
351 maternity or paternity at the expense of the parent claiming
352 parental rights.

353 (b) The court shall appoint a guardian ad litem for the
354 surrendered infant and order whatever investigation, home
355 evaluation, and psychological evaluation are necessary to
356 determine what is in the best interests ~~interest~~ of the
357 surrendered infant.

358 (c) The court may not terminate parental rights solely on
359 the basis that the parent left the infant at a hospital,
360 emergency medical services station, or fire station in
361 accordance with s. 383.50.

362 (d) The court shall enter a judgment with written findings
363 of fact and conclusions of law.

364 (8) Within 7 business days after recording the judgment,

365 the clerk of the court shall mail a copy of the judgment to the
 366 department, the petitioner, and any person ~~the persons~~ whose
 367 consent was ~~were~~ required, if known. The clerk shall execute a
 368 certificate of each mailing.

369 (9) (a) A judgment terminating parental rights pending
 370 adoption is voidable, and any later judgment of adoption of that
 371 minor is voidable, if, upon the motion of a ~~birth~~ parent, the
 372 court finds that a person knowingly gave false information that
 373 prevented the ~~birth~~ parent from timely making known his or her
 374 desire to assume parental responsibilities toward the minor or
 375 from exercising his or her parental rights. A motion under this
 376 subsection must be filed with the court originally entering the
 377 judgment. The motion must be filed within a reasonable time but
 378 not later than 1 year after the entry of the judgment
 379 terminating parental rights.

380 (b) No later than 30 days after the filing of a motion
 381 under this subsection, the court shall conduct a preliminary
 382 hearing to determine what contact, if any, will be permitted
 383 between a ~~birth~~ parent and the child pending resolution of the
 384 motion. Such contact may be allowed only if it is requested by a
 385 parent who has appeared at the hearing and the court determines
 386 that it is in the best interests ~~interest~~ of the child. If the
 387 court orders contact between a ~~birth~~ parent and the child, the
 388 order must be issued in writing as expeditiously as possible and
 389 must state with specificity any provisions regarding contact
 390 with persons other than those with whom the child resides.

391 (c) ~~At the preliminary hearing, The court, upon the motion~~
 392 ~~of any party or upon its own motion,~~ may not order scientific

393 testing to determine the paternity or maternity of the minor
 394 until such time as the court determines that a previously
 395 entered judgment terminating the parental rights of that parent
 396 is voidable pursuant to paragraph (a), unless all parties agree
 397 that such testing is in the best interests of the child ~~if the~~
 398 ~~person seeking to set aside the judgment is alleging to be the~~
 399 ~~child's birth parent but has not previously been determined by~~
 400 ~~legal proceedings or scientific testing to be the birth parent.~~

401 Upon the filing of test results establishing that person's
 402 maternity or paternity of the surrendered infant, the court may
 403 order visitation only if it appears to be ~~as it deems~~
 404 ~~appropriate and~~ in the best interests ~~interest~~ of the child.

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

409 Section 7. Section 63.0427, Florida Statutes, is amended
 410 to read:

411 63.0427 Agreements for ~~Adopted minor's right to~~ continued
 412 communication or contact between adopted child and ~~with~~
 413 siblings, parents, and other relatives.-

414 (1) A child whose parents have had their parental rights
 415 terminated and whose custody has been awarded to the department
 416 pursuant to s. 39.811, and who is the subject of a petition for
 417 adoption under this chapter, shall have the right to have the
 418 court consider the appropriateness of postadoption communication
 419 or contact, including, but not limited to, visits, written
 420 correspondence, or telephone calls, with his or her siblings or,

421 upon agreement of the adoptive parents, with the parents who
 422 have had their parental rights terminated or other specified
 423 biological relatives. The court shall consider the following in
 424 making such determination:

425 (a) Any orders of the court pursuant to s. 39.811(7).

426 (b) Recommendations of the department, the foster parents
 427 if other than the adoptive parents, and the guardian ad litem.

428 (c) Statements of the prospective adoptive parents.

429 (d) Any other information deemed relevant and material by
 430 the court.

431
 432 If the court determines that the child's best interests will be
 433 served by postadoption communication or contact, the court shall
 434 so order, stating the nature and frequency of ~~for~~ the
 435 communication or contact. This order shall be made a part of the
 436 final adoption order, but ~~in no event shall~~ the continuing
 437 validity of the adoption may not be contingent upon such
 438 postadoption communication or contact and, ~~nor shall~~ the ability
 439 of the adoptive parents and child to change residence within or
 440 outside the State of Florida may not be impaired by such
 441 communication or contact.

442 (2) Notwithstanding ~~the provisions of~~ s. 63.162, the
 443 adoptive parent may, at any time, petition for review of a
 444 communication or contact order entered pursuant to subsection
 445 (1), if the adoptive parent believes that the best interests of
 446 the adopted child are being compromised, and the court may ~~shall~~
 447 ~~have authority to~~ order the communication or contact to be
 448 terminated or modified, as the court deems to be in the best

449 interests of the adopted child; however, the court may not
 450 increase contact between the adopted child and siblings, birth
 451 parents, or other relatives without the consent of the adoptive
 452 parent or parents. As part of the review process, the court may
 453 order the parties to engage in mediation. The department shall
 454 not be required to be a party to such review.

455 Section 8. Subsections (1), (2), (3), and (6) of section
 456 63.052, Florida Statutes, are amended to read:

457 63.052 Guardians designated; proof of commitment.—

458 (1) For minors who have been placed for adoption with ~~and~~
 459 ~~permanently committed to~~ an adoption entity, other than an
 460 intermediary, such adoption entity shall be the guardian of the
 461 person of the minor and has the responsibility and authority to
 462 provide for the needs and welfare of the minor.

463 (2) For minors who have been voluntarily surrendered to an
 464 intermediary through an execution of a consent to adoption, the
 465 intermediary shall be responsible for the minor until the time a
 466 court orders preliminary approval of placement of the minor in
 467 the prospective adoptive home, after which time the prospective
 468 adoptive parents shall become guardians pending finalization of
 469 adoption, subject to the intermediary's right and responsibility
 470 to remove the child from the prospective adoptive home if the
 471 removal is deemed by the intermediary to be in the best
 472 interests ~~interest~~ of the child. The intermediary may not remove
 473 the child without a court order unless the child is in danger of
 474 imminent harm. The intermediary does not become responsible for
 475 the minor child's medical bills that were incurred before taking
 476 physical custody of the child after the execution of adoption

477 consents. Prior to the court's entry of an order granting
 478 preliminary approval of the placement, the intermediary shall
 479 have the responsibility and authority to provide for the needs
 480 and welfare of the minor. A ~~No~~ minor may not ~~shall~~ be placed in
 481 a prospective adoptive home until that home has received a
 482 favorable preliminary home study, as provided in s. 63.092,
 483 completed and approved within 1 year before such placement in
 484 the prospective home. The provisions of s. 627.6578 shall remain
 485 in effect notwithstanding the guardianship provisions in this
 486 section.

487 (3) If a minor is surrendered to an adoption entity for
 488 subsequent adoption and a suitable prospective adoptive home is
 489 not available pursuant to s. 63.092 at the time the minor is
 490 surrendered to the adoption entity, the minor must be placed in
 491 a licensed foster care home, ~~or~~ with a person or family that has
 492 received a favorable preliminary home study pursuant to
 493 subsection (2), or with a relative until ~~such~~ a suitable
 494 prospective adoptive home is available.

495 (6) Unless otherwise authorized by law or ordered by the
 496 court, the department is not responsible for expenses incurred
 497 by other adoption entities participating in a placement of a
 498 minor.

499 Section 9. Subsections (2) and (3) of section 63.053,
 500 Florida Statutes, are amended to read:

501 63.053 Rights and responsibilities of an unmarried
 502 biological father; legislative findings.—

503 (2) The Legislature finds that the interests of the state,
 504 the mother, the child, and the adoptive parents described in

505 | this chapter outweigh the interest of an unmarried biological
506 | father who does not take action in a timely manner to establish
507 | and demonstrate a relationship with his child in accordance with
508 | the requirements of this chapter. An unmarried biological father
509 | has the primary responsibility to protect his rights and is
510 | presumed to know that his child may be adopted without his
511 | consent unless he strictly complies with ~~the provisions of this~~
512 | chapter and demonstrates a prompt and full commitment to his
513 | parental responsibilities.

514 | (3) The Legislature finds that a birth mother and a birth
515 | father have a right of ~~to~~ privacy.

516 | Section 10. Subsections (1), (2), (4), and (13) of section
517 | 63.054, Florida Statutes, are amended to read:

518 | 63.054 Actions required by an unmarried biological father
519 | to establish parental rights; Florida Putative Father Registry.—

520 | (1) In order to preserve the right to notice and consent
521 | to an adoption under this chapter, an unmarried biological
522 | father must, as the "registrant," file a notarized claim of
523 | paternity form with the Florida Putative Father Registry
524 | maintained by the Office of Vital Statistics of the Department
525 | of Health which includes confirmation of his willingness and
526 | intent to support the child for whom paternity is claimed in
527 | accordance with state law. The claim of paternity may be filed
528 | at any time before the child's birth, but may not be filed after
529 | the date a petition is filed for termination of parental rights.
530 | In each proceeding for termination of parental rights, the
531 | petitioner must submit to the Office of Vital Statistics a copy
532 | of the petition for termination of parental rights or a document

533 executed by the clerk of the court showing the style of the
534 case, the names of the persons whose rights are sought to be
535 terminated, and the date and time of the filing of the petition.

536 The Office of Vital Statistics may not record a claim of
537 paternity after the date a petition for termination of parental
538 rights is filed. The failure of an unmarried biological father
539 to file a claim of paternity with the registry before the date a
540 petition for termination of parental rights is filed also bars
541 him from filing a paternity claim under chapter 742.

542 (a) An unmarried biological father is excepted from the
543 time limitations for filing a claim of paternity with the
544 registry or for filing a paternity claim under chapter 742, if:

545 1. The mother identifies him to the adoption entity as a
546 potential biological father by the date she executes a consent
547 for adoption; and

548 2. He is served with a notice of intended adoption plan
549 pursuant to s. 63.062(3) and the 30-day mandatory response date
550 is later than the date the petition for termination of parental
551 rights is filed with the court.

552 (b) If an unmarried biological father falls within the
553 exception provided by paragraph (a), the petitioner shall also
554 submit to the Office of Vital Statistics a copy of the notice of
555 intended adoption plan and proof of service of the notice on the
556 potential biological father.

557 (c) An unmarried biological father who falls within the
558 exception provided by paragraph (a) may not file a claim of
559 paternity with the registry or a paternity claim under chapter
560 742 after the 30-day mandatory response date to the notice of

561 intended adoption plan has expired. The Office of Vital
562 Statistics may not record a claim of paternity 30 days after
563 service of the notice of intended adoption plan.

564 (2) By filing a claim of paternity form with the Office of
565 Vital Statistics, the registrant expressly consents to submit to
566 and pay for DNA testing upon the request of any party, the
567 registrant, or the adoption entity with respect to the child
568 referenced in the claim of paternity.

569 (4) Upon initial registration, or at any time thereafter,
570 the registrant may designate a physical ~~an~~ address other than
571 his residential address for sending any communication regarding
572 his registration. Similarly, upon initial registration, or at
573 any time thereafter, the registrant may designate, in writing,
574 an agent or representative to receive any communication on his
575 behalf and receive service of process. The agent or
576 representative must file an acceptance of the designation, in
577 writing, in order to receive notice or service of process. The
578 failure of the designated representative or agent of the
579 registrant to deliver or otherwise notify the registrant of
580 receipt of correspondence from the Florida Putative Father
581 Registry is at the registrant's own risk and may ~~shall~~ not serve
582 as a valid defense based upon lack of notice.

583 (13) The filing of a claim of paternity with the Florida
584 Putative Father Registry does not excuse or waive the obligation
585 of a petitioner to comply with the requirements of s. 63.088(4)
586 for conducting a diligent search and required inquiry with
587 respect to the identity of an unmarried biological father or
588 legal father which are set forth in this chapter.

589 Section 11. Paragraph (b) of subsection (1), subsections
 590 (2), (3), and (4), and paragraph (a) of subsection (8) of
 591 section 63.062, Florida Statutes, are amended to read:

592 63.062 Persons required to consent to adoption; affidavit
 593 of nonpaternity; waiver of venue.—

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

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

600 1. The minor was conceived or born while the father was
 601 married to the mother;

602 2. The minor is his child by adoption;

603 3. The minor has been adjudicated by the court to be his
 604 child before ~~by~~ the date a petition ~~is filed~~ for termination of
 605 parental rights is filed;

606 4. He has filed an affidavit of paternity pursuant to s.
 607 382.013(2)(c) or he is listed on the child's birth certificate
 608 before ~~by~~ the date a petition ~~is filed~~ for termination of
 609 parental rights is filed; or

610 5. In the case of an unmarried biological father, he has
 611 acknowledged in writing, signed in the presence of a competent
 612 witness, that he is the father of the minor, has filed such
 613 acknowledgment with the Office of Vital Statistics of the
 614 Department of Health within the required timeframes, and has
 615 complied with the requirements of subsection (2).

616

617 The status of the father shall be determined at the time of the
 618 filing of the petition to terminate parental rights and may not
 619 be modified, except as otherwise provided in s. 63.0423(9) (a),
 620 for purposes of his obligations and rights under this chapter by
 621 acts occurring after the filing of the petition to terminate
 622 parental rights.

623 (2) In accordance with subsection (1), the consent of an
 624 unmarried biological father shall be necessary only if the
 625 unmarried biological father has complied with the requirements
 626 of this subsection.

627 (a)1. With regard to a child who is placed with adoptive
 628 parents more than 6 months after the child's birth, an unmarried
 629 biological father must have developed a substantial relationship
 630 with the child, taken some measure of responsibility for the
 631 child and the child's future, and demonstrated a full commitment
 632 to the responsibilities of parenthood by providing reasonable
 633 and regular financial support to the child in accordance with
 634 the unmarried biological father's ability, if not prevented from
 635 doing so by the person or authorized agency having lawful
 636 custody of the child, and either:

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

641 b. Maintained regular communication with the child or with
 642 the person or agency having the care or custody of the child,
 643 when physically or financially unable to visit the child or when
 644 not prevented from doing so by the birth mother or person or

645 authorized agency having lawful custody of the child.

646 ~~2. The mere fact that an unmarried biological father~~
647 ~~expresses a desire to fulfill his responsibilities towards his~~
648 ~~child which is unsupported by acts evidencing this intent does~~
649 ~~not preclude a finding by the court that the unmarried~~
650 ~~biological father failed to comply with the requirements of this~~
651 ~~subsection.~~

652 ~~2.3.~~ An unmarried biological father who openly lived with
653 the child for at least 6 months within the 1-year period
654 following the birth of the child and immediately preceding
655 placement of the child with adoptive parents and who openly held
656 himself out to be the father of the child during that period
657 shall be deemed to have developed a substantial relationship
658 with the child and to have otherwise met the requirements of
659 this paragraph.

660 (b) With regard to a child who is ~~younger than~~ 6 months of
661 age or younger at the time the child is placed with the adoptive
662 parents, an unmarried biological father must have demonstrated a
663 full commitment to his parental responsibility by having
664 performed all of the following acts prior to the time the mother
665 executes her consent for adoption:

666 1. Filed a notarized claim of paternity form with the
667 Florida Putative Father Registry within the Office of Vital
668 Statistics of the Department of Health, which form shall be
669 maintained in the confidential registry established for that
670 purpose and shall be considered filed when the notice is entered
671 in the registry of notices from unmarried biological fathers.

672 2. Upon service of a notice of an intended adoption plan

673 or a petition for termination of parental rights pending
674 adoption, executed and filed an affidavit in that proceeding
675 stating that he is personally fully able and willing to take
676 responsibility for the child, setting forth his plans for care
677 of the child, and agreeing to a court order of child support and
678 a contribution to the payment of living and medical expenses
679 incurred for the mother's pregnancy and the child's birth in
680 accordance with his ability to pay.

681 3. If he had knowledge of the pregnancy, paid a fair and
682 reasonable amount of the living and medical expenses incurred in
683 connection with the mother's pregnancy and the child's birth, in
684 accordance with his financial ability and when not prevented
685 from doing so by the birth mother or person or authorized agency
686 having lawful custody of the child. The responsibility of the
687 unmarried biological father to provide financial assistance to
688 the birth mother during her pregnancy and to the child after
689 birth is not abated because support is being provided to the
690 birth mother or child by the adoption entity, a prospective
691 adoptive parent, or a third party, nor does it serve as a basis
692 to excuse the birth father's failure to provide support.

693 (c) The mere fact that a father expresses a desire to
694 fulfill his responsibilities towards his child which is
695 unsupported by acts evidencing this intent does not meet the
696 requirements of this section.

697 (d)-(e) The petitioner shall file with the court a
698 certificate from the Office of Vital Statistics stating that a
699 diligent search has been made of the Florida Putative Father
700 Registry of notices from unmarried biological fathers described

701 in subparagraph (b)1. and that no filing has been found
702 pertaining to the father of the child in question or, if a
703 filing is found, stating the name of the putative father and the
704 time and date of filing. That certificate shall be filed with
705 the court prior to the entry of a final judgment of termination
706 of parental rights.

707 (e)~~(d)~~ An unmarried biological father who does not comply
708 with each of the conditions provided in this subsection is
709 deemed to have waived and surrendered any rights in relation to
710 the child, including the right to notice of any judicial
711 proceeding in connection with the adoption of the child, and his
712 consent to the adoption of the child is not required.

713 (3) Pursuant to chapter 48, an adoption entity shall serve
714 a notice of intended adoption plan upon any known and locatable
715 unmarried biological father who is identified to the adoption
716 entity by the mother by the date she signs her consent for
717 adoption if the child is 6 months of age or less at the time the
718 consent is executed ~~or who is identified by a diligent search of~~
719 ~~the Florida Putative Father Registry, or upon an entity whose~~
720 ~~consent is required~~. Service of the notice of intended adoption
721 plan is not required ~~mandatory~~ when the unmarried biological
722 father signs a consent for adoption or an affidavit of
723 nonpaternity or when the child is more than 6 months of age at
724 the time of the execution of the consent by the mother. The
725 notice may be served at any time before the child's birth or
726 before placing the child in the adoptive home. The recipient of
727 the notice may waive service of process by executing a waiver
728 and acknowledging receipt of the plan. The notice of intended

729 adoption plan must specifically state that if the unmarried
730 biological father desires to contest the adoption plan he must,
731 within 30 days after service, file with the court a verified
732 response that contains a pledge of commitment to the child in
733 substantial compliance with subparagraph (2)(b)2. and a claim of
734 paternity form with the Office of Vital Statistics, and must
735 provide the adoption entity with a copy of the verified response
736 filed with the court and the claim of paternity form filed with
737 the Office of Vital Statistics. The notice must also include
738 instructions for submitting a claim of paternity form to the
739 Office of Vital Statistics and the address to which the claim
740 must be sent. If the party served with the notice of intended
741 adoption plan is an entity whose consent is required, the notice
742 must specifically state that the entity must file, within 30
743 days after service, a verified response setting forth a legal
744 basis for contesting the intended adoption plan, specifically
745 addressing the best interests ~~interest~~ of the child.

746 (a) If the unmarried biological father or entity whose
747 consent is required fails to timely and properly file a verified
748 response with the court and, in the case of an unmarried
749 biological father, a claim of paternity form with the Office of
750 Vital Statistics, the court shall enter a default judgment
751 against the ~~any~~ unmarried biological father or entity and the
752 consent of that unmarried biological father or entity shall no
753 longer be required under this chapter and shall be deemed to
754 have waived any claim of rights to the child. To avoid an entry
755 of a default judgment, within 30 days after receipt of service
756 of the notice of intended adoption plan:

757 1. The unmarried biological father must:

758 a. File a claim of paternity with the Florida Putative

759 Father Registry maintained by the Office of Vital Statistics;

760 b. File a verified response with the court which contains

761 a pledge of commitment to the child in substantial compliance

762 with subparagraph (2)(b)2.; and

763 c. Provide support for the birth mother and the child.

764 2. The entity whose consent is required must file a

765 verified response setting forth a legal basis for contesting the

766 intended adoption plan, specifically addressing the best

767 interests ~~interest~~ of the child.

768 (b) If the mother identifies a potential unmarried

769 biological father within the timeframes required by the statute,

770 whose location is unknown, the adoption entity shall conduct a

771 diligent search pursuant to s. 63.088. If, upon completion of a

772 diligent search, the potential unmarried biological father's

773 location remains unknown and a search of the Florida Putative

774 Father Registry fails to reveal a match, the adoption entity

775 shall request in the petition for termination of parental rights

776 pending adoption that the court declare the diligent search to

777 be in compliance with s. 63.088, that the adoption entity has no

778 further obligation to provide notice to the potential unmarried

779 biological father, and that the potential unmarried biological

780 father's consent to the adoption is not required.

781 (4) Any person whose consent is required under paragraph

782 (1)(b), or any other man, may execute an irrevocable affidavit

783 of nonpaternity in lieu of a consent under this section and by

784 doing so waives notice to all court proceedings after the date

785 of execution. An affidavit of nonpaternity must be executed as
 786 provided in s. 63.082. The affidavit of nonpaternity may be
 787 executed prior to the birth of the child. The person executing
 788 the affidavit must receive disclosure under s. 63.085 prior to
 789 signing the affidavit. For purposes of this chapter, an
 790 affidavit of nonpaternity is sufficient if it contains a
 791 specific denial of parental obligations and does not need to
 792 deny the existence of a biological relationship.

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

794 (a) Written consent to adoption has been executed by the
 795 adult and the adult's spouse, if any, unless the spouse's
 796 consent is waived by the court for good cause.

797 Section 12. Subsection (2) of section 63.063, Florida
 798 Statutes, is amended to read:

799 63.063 Responsibility of parents for actions; fraud or
 800 misrepresentation; contesting termination of parental rights and
 801 adoption.—

802 (2) Any person injured by a fraudulent representation or
 803 action in connection with an adoption may pursue civil or
 804 criminal penalties as provided by law. A fraudulent
 805 representation is not a defense to compliance with the
 806 requirements of this chapter and is not a basis for dismissing a
 807 petition for termination of parental rights or a petition for
 808 adoption, for vacating an adoption decree, or for granting
 809 custody to the offended party. Custody and adoption
 810 determinations must be based on the best interests ~~interest~~ of
 811 the child in accordance with s. 61.13.

812 Section 13. Paragraph (d) of subsection (1), paragraphs

813 (c) and (d) of subsection (3), paragraphs (a), (d), and (e) of
 814 subsection (4), and subsections (6) and (7) of section 63.082,
 815 Florida Statutes, are amended to read:

816 63.082 Execution of consent to adoption or affidavit of
 817 nonpaternity; family social and medical history; revocation
 818 ~~withdrawal~~ of consent.-

819 (1)

820 (d) The notice and consent provisions of this chapter as
 821 they relate to the father ~~birth~~ of a child ~~or to legal fathers~~
 822 do not apply in cases in which the child is conceived as a
 823 result of a violation of the criminal laws of this or another
 824 state or country, including, but not limited to, sexual battery,
 825 unlawful sexual activity with certain minors under s. 794.05,
 826 lewd acts perpetrated upon a minor, or incest. Notice shall be
 827 provided to the father of a child alleged to have been conceived
 828 as a result of a violation of the criminal laws of this or
 829 another state or country, if no criminal charges have been
 830 filed. A criminal conviction is not required for the court to
 831 find that the child was conceived as a result of a violation of
 832 the criminal laws of this state or another state or country.

833 (3)

834 (c) If any person who is required to consent is
 835 unavailable because the person cannot be located, an the
 836 ~~petition to terminate parental rights pending adoption must be~~
 837 ~~accompanied by the~~ affidavit of diligent search required under
 838 s. 63.088 shall be filed.

839 (d) If any person who is required to consent is
 840 unavailable because the person is deceased, the petition to

841 terminate parental rights pending adoption must be accompanied
842 by a certified copy of the death certificate. In an adoption of
843 a stepchild or a relative, the certified copy of the death
844 certificate of the person whose consent is required may ~~must~~ be
845 attached to the petition for adoption if a separate petition for
846 termination of parental rights is not being filed.

847 (4) (a) An affidavit of nonpaternity may be executed before
848 the birth of the minor; however, the consent to an adoption may
849 ~~shall~~ not be executed before the birth of the minor except in a
850 preplanned adoption pursuant to s. 63.213.

851 (d) The consent to adoption or the affidavit of
852 nonpaternity must be signed in the presence of two witnesses and
853 be acknowledged before a notary public who is not signing as one
854 of the witnesses. The notary public must legibly note on the
855 consent or the affidavit the date and time of execution. The
856 witnesses' names must be typed or printed underneath their
857 signatures. The witnesses' home or business addresses must be
858 included. The person who signs the consent or the affidavit has
859 the right to have at least one of the witnesses be an individual
860 who does not have an employment, professional, or personal
861 relationship with the adoption entity or the prospective
862 adoptive parents. The adoption entity must give reasonable
863 advance notice to the person signing the consent or affidavit of
864 the right to select a witness of his or her own choosing. The
865 person who signs the consent or affidavit must acknowledge in
866 writing on the consent or affidavit that such notice was given
867 and indicate the witness, if any, who was selected by the person
868 signing the consent or affidavit. The adoption entity must

869 include its name, address, and telephone number on the consent
 870 to adoption or affidavit of nonpaternity.

871 (e) A consent to adoption being executed by the birth
 872 parent must be in at least 12-point boldfaced type and shall
 873 contain the following recitation of rights ~~in substantially the~~
 874 ~~following form:~~

875 CONSENT TO ADOPTION

876
 877 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT
 878 HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH
 879 THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE
 880 PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A
 881 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE
 882 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR
 883 WITNESSES YOU SELECTED, IF ANY.

884
 885 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE
 886 FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS
 887 CONSENT:

- 888
- 889 1. CONSULT WITH AN ATTORNEY;
 - 890 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE
 891 LEGALLY PROHIBITED;
 - 892 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR
 893 FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE
 894 CHILD;
 - 895 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY
 896 PROHIBITED; AND

897 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE
 898 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE
 899 ADOPTION.

900
 901 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO
 902 YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE
 903 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP
 904 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED
 905 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL
 906 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE
 907 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT
 908 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
 909 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN
 910 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT
 911 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
 912 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY
 913 BE EXECUTED. ANY MAN MAY EXECUTE A CONSENT AT ANY TIME AFTER THE
 914 BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT, IT IS
 915 VALID, BINDING, AND IRREVOCABLE AND CANNOT BE INVALIDATED
 916 ~~WITHDRAWN~~ UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
 917 DURESS.

918
 919 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR DURESS
 920 AND YOU WISH TO INVALIDATE ~~REVOKE~~ THAT CONSENT, YOU MUST:

- 921
 922 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT
 923 YOU WISH TO WITHDRAW YOUR CONSENT; AND
 924 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD

925 OR DURESS.

926

927 This statement of rights is not required for the adoption of a
928 relative, an adult, a stepchild, or a child older than 6 months
929 of age. A consent form for the adoption of a child older than 6
930 months of age at the time of the execution of consent must
931 contain a statement outlining the revocation rights provided in
932 paragraph (c).

933 (6) (a) If a parent executes a consent for placement of a
934 minor with an adoption entity or qualified prospective adoptive
935 parents and the minor child is in the custody of the department,
936 but parental rights have not yet been terminated, the adoption
937 consent is valid, binding, and enforceable by the court.

938 (b) Upon execution of the consent of the parent, the
939 adoption entity shall be permitted to ~~may~~ intervene in the
940 dependency case as a party in interest and must provide the
941 court that acquired ~~having~~ jurisdiction over the minor, pursuant
942 to the shelter or dependency petition filed by the department, a
943 copy of the preliminary home study of the prospective adoptive
944 parents and any other evidence of the suitability of the
945 placement. The preliminary home study must be maintained with
946 strictest confidentiality within the dependency court file and
947 the department's file. A preliminary home study must be provided
948 to the court in all cases in which an adoption entity has
949 intervened pursuant to this section. Unless the court has
950 concerns regarding the qualifications of the home study
951 provider, or concerns that the home study may not be adequate to
952 determine the best interests of the child, the home study

953 provided by the adoption entity shall be deemed to be sufficient
 954 and no additional home study needs to be performed by the
 955 department.

956 (c) If an adoption entity files a motion to intervene in
 957 the dependency case in accordance with this chapter, the
 958 dependency court shall promptly grant a hearing to determine
 959 whether the adoption entity has filed the required documents to
 960 be permitted to intervene and whether a change of placement of
 961 the child is appropriate.

962 (d)-(e) Upon a determination by the court that the
 963 prospective adoptive parents are properly qualified to adopt the
 964 minor child and that the adoption appears to be in the best
 965 interests ~~interest~~ of the minor child, the court shall
 966 immediately order the transfer of custody of the minor child to
 967 the prospective adoptive parents, under the supervision of the
 968 adoption entity. The adoption entity shall thereafter provide
 969 monthly supervision reports to the department until finalization
 970 of the adoption. If the child has been determined to be
 971 dependent by the court, the department shall provide information
 972 to the prospective adoptive parents at the time they receive
 973 placement of the dependent child regarding approved parent
 974 training classes available within the community. The department
 975 shall file with the court an acknowledgement of the parent's
 976 receipt of the information regarding approved parent training
 977 classes available within the community.

978 (e)-(d) In determining whether the best interests ~~interest~~
 979 of the child are ~~is~~ served by transferring the custody of the
 980 minor child to the prospective adoptive parent selected by the

981 parent, the court shall consider the rights of the parent to
982 determine an appropriate placement for the child, the permanency
983 offered, the child's bonding with any potential adoptive home
984 that the child has been residing in, and the importance of
985 maintaining sibling relationships, if possible.

986 (f) The adoption entity shall be responsible for keeping
987 the dependency court informed of the status of the adoption
988 proceedings at least every 90 days from the date of the order
989 changing placement of the child until the date of finalization
990 of the adoption.

991 (g) In all dependency proceedings, the department and the
992 court shall advise the biological parent of the right to
993 participate in a private adoption plan at the time the petition
994 for termination of parental rights is filed.

995 (7) If a person is seeking to revoke ~~withdraw~~ consent for
996 a child older than 6 months of age ~~who has been placed with~~
997 ~~prospective adoptive parents:~~

998 (a) The person seeking to revoke ~~withdraw~~ consent must, in
999 accordance with paragraph (4) (c), notify the adoption entity in
1000 writing by certified mail, return receipt requested, within 3
1001 business days after execution of the consent. As used in this
1002 subsection, the term "business day" means any day on which the
1003 United States Postal Service accepts certified mail for
1004 delivery.

1005 (b) Upon receiving timely written notice from a person
1006 whose consent to adoption is required of that person's desire to
1007 revoke ~~withdraw~~ consent, the adoption entity must contact the
1008 prospective adoptive parent to arrange a time certain for the

CS/CS/CS/HB 1163

2012

1009 adoption entity to regain physical custody of the minor, unless,
1010 upon a motion for emergency hearing by the adoption entity, the
1011 court determines in written findings that placement of the minor
1012 with the person who had legal or physical custody of the child
1013 immediately before the child was placed for adoption may
1014 endanger the minor or that the person who desires to revoke
1015 ~~withdraw~~ consent is not required to consent to the adoption, has
1016 been determined to have abandoned the child, or is otherwise
1017 subject to a determination that the person's consent is waived
1018 under this chapter.

1019 (c) If the court finds that the placement may endanger the
1020 minor, the court shall enter an order continuing the placement
1021 of the minor with the prospective adoptive parents pending
1022 further proceedings if they desire continued placement. If the
1023 prospective adoptive parents do not desire continued placement,
1024 the order must include, but need not be limited to, a
1025 determination of whether temporary placement in foster care,
1026 with the person who had legal or physical custody of the child
1027 immediately before placing the child for adoption, or with a
1028 relative is in the best interests ~~interest~~ of the child and
1029 whether an investigation by the department is recommended.

1030 (d) If the person revoking ~~withdrawing~~ consent claims to
1031 be the father of the minor but has not been established to be
1032 the father by marriage, court order, or scientific testing, the
1033 court may order scientific paternity testing and reserve ruling
1034 on removal of the minor until the results of such testing have
1035 been filed with the court.

1036 (e) The adoption entity must return the minor within 3

1037 business days after timely and proper notification of the
 1038 revocation ~~withdrawal~~ of consent or after the court determines
 1039 that revocation ~~withdrawal~~ is timely and in accordance with the
 1040 requirements of this chapter ~~valid and binding~~ upon
 1041 consideration of an emergency motion, as filed pursuant to
 1042 paragraph (b), to the physical custody of the person revoking
 1043 ~~withdrawing~~ consent or the person directed by the court. If the
 1044 person seeking to revoke ~~withdraw~~ consent claims to be the
 1045 father of the minor but has not been established to be the
 1046 father by marriage, court order, or scientific testing, the
 1047 adoption entity may return the minor to the care and custody of
 1048 the mother, if she desires such placement and she is not
 1049 otherwise prohibited by law from having custody of the child.

1050 (f) Following the revocation period ~~for withdrawal of~~
 1051 ~~consent~~ described in paragraph (a), ~~or the placement of the~~
 1052 ~~child with the prospective adoptive parents, whichever occurs~~
 1053 ~~later~~, consent may be set aside ~~withdrawn~~ only when the court
 1054 finds that the consent was obtained by fraud or duress.

1055 (g) An affidavit of nonpaternity may be set aside
 1056 ~~withdrawn~~ only if the court finds that the affidavit was
 1057 obtained by fraud or duress.

1058 (h) If the consent of one parent is set aside or revoked
 1059 in accordance with this chapter, any other consents executed by
 1060 the other parent or a third party whose consent is required for
 1061 the adoption of the child may not be used by the parent who
 1062 consent was revoked or set aside to terminate or diminish the
 1063 rights of the other parent or third party whose consent was
 1064 required for the adoption of the child.

1065 Section 14. Subsection (1) and paragraph (a) of subsection
 1066 (2) of section 63.085, Florida Statutes, are amended, and
 1067 paragraph (c) is added to subsection (2) of that section, to
 1068 read:

1069 63.085 Disclosure by adoption entity.—

1070 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
 1071 ADOPTIVE PARENTS.—Within 14 days after a person seeking to adopt
 1072 a minor or a person seeking to place a minor for adoption
 1073 contacts an adoption entity in person or provides the adoption
 1074 entity with a mailing address, the entity must provide a written
 1075 disclosure statement to that person if the entity agrees or
 1076 continues to work with the person. The adoption entity shall
 1077 also provide the written disclosure to the parent who did not
 1078 initiate contact with the adoption entity within 14 days after
 1079 that parent is identified and located. For purposes of providing
 1080 the written disclosure, a person is considered to be seeking to
 1081 place a minor for adoption if that person has sought information
 1082 or advice from the adoption entity regarding the option of
 1083 adoptive placement. The written disclosure statement must be in
 1084 substantially the following form:

1085
 1086 ADOPTION DISCLOSURE
 1087 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL
 1088 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR
 1089 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
 1090 ADOPTION UNDER FLORIDA LAW:

1091
 1092 1. The name, address, and telephone number of the adoption

CS/CS/CS/HB 1163

2012

1093 entity providing this disclosure is:

1094 Name:

1095 Address:

1096 Telephone Number:

1097 2. The adoption entity does not provide legal
1098 representation or advice to parents or anyone signing a consent
1099 for adoption or affidavit of nonpaternity, and parents have the
1100 right to consult with an attorney of their own choosing to
1101 advise them.

1102 3. With the exception of an adoption by a stepparent or
1103 relative, a child cannot be placed into a prospective adoptive
1104 home unless the prospective adoptive parents have received a
1105 favorable preliminary home study, including criminal and child
1106 abuse clearances.

1107 4. A valid consent for adoption may not be signed by the
1108 birth mother until 48 hours after the birth of the child, or the
1109 day the birth mother is notified, in writing, that she is fit
1110 for discharge from the licensed hospital or birth center. Any
1111 man may sign a valid consent for adoption at any time after the
1112 birth of the child.

1113 5. A consent for adoption signed before the child attains
1114 the age of 6 months is binding and irrevocable from the moment
1115 it is signed unless it can be proven in court that the consent
1116 was obtained by fraud or duress. A consent for adoption signed
1117 after the child attains the age of 6 months is valid from the
1118 moment it is signed; however, it may be revoked up to 3 business
1119 days after it was signed.

1120 6. A consent for adoption is not valid if the signature of

1121 the person who signed the consent was obtained by fraud or
1122 duress.

1123 7. An unmarried biological father must act immediately in
1124 order to protect his parental rights. Section 63.062, Florida
1125 Statutes, prescribes that any father seeking to establish his
1126 right to consent to the adoption of his child must file a claim
1127 of paternity with the Florida Putative Father Registry
1128 maintained by the Office of Vital Statistics of the Department
1129 of Health by the date a petition to terminate parental rights is
1130 filed with the court, or within 30 days after receiving service
1131 of a Notice of Intended Adoption Plan. If he receives a Notice
1132 of Intended Adoption Plan, he must file a claim of paternity
1133 with the Florida Putative Father Registry, file a parenting plan
1134 with the court, and provide financial support to the mother or
1135 child within 30 days following service. An unmarried biological
1136 father's failure to timely respond to a Notice of Intended
1137 Adoption Plan constitutes an irrevocable legal waiver of any and
1138 all rights that the father may have to the child. A claim of
1139 paternity registration form for the Florida Putative Father
1140 Registry may be obtained from any local office of the Department
1141 of Health, Office of Vital Statistics, the Department of
1142 Children and Families, the Internet websites for these agencies,
1143 and the offices of the clerks of the Florida circuit courts. The
1144 claim of paternity form must be submitted to the Office of Vital
1145 Statistics, Attention: Adoption Unit, P.O. Box 210,
1146 Jacksonville, FL 32231.

1147 8. There are alternatives to adoption, including foster
1148 care, relative care, and parenting the child. There may be

1149 services and sources of financial assistance in the community
 1150 available to parents if they choose to parent the child.

1151 9. A parent has the right to have a witness of his or her
 1152 choice, who is unconnected with the adoption entity or the
 1153 adoptive parents, to be present and witness the signing of the
 1154 consent or affidavit of nonpaternity.

1155 10. A parent 14 years of age or younger must have a
 1156 parent, legal guardian, or court-appointed guardian ad litem to
 1157 assist and advise the parent as to the adoption plan and to
 1158 witness consent.

1159 11. A parent has a right to receive supportive counseling
 1160 from a counselor, social worker, physician, clergy, or attorney.

1161 12. The payment of living or medical expenses by the
 1162 prospective adoptive parents before the birth of the child does
 1163 not, in any way, obligate the parent to sign the consent for
 1164 adoption.

1165 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

1166 (a) At the time that an adoption entity is responsible for
 1167 selecting prospective adoptive parents for a born or unborn
 1168 child whose parents are seeking to place the child for adoption
 1169 or whose rights were terminated pursuant to chapter 39, the
 1170 adoption entity must provide the prospective adoptive parents
 1171 with information concerning the background of the child to the
 1172 extent such information is disclosed to the adoption entity by
 1173 the parents, legal custodian, or the department. This subsection
 1174 applies only if the adoption entity identifies the prospective
 1175 adoptive parents and supervises the ~~physical~~ placement of the
 1176 child in the prospective adoptive parents' home. If any

1177 information cannot be disclosed because the records custodian
1178 failed or refused to produce the background information, the
1179 adoption entity has a duty to provide the information if it
1180 becomes available. An individual or entity contacted by an
1181 adoption entity to obtain the background information must
1182 release the requested information to the adoption entity without
1183 the necessity of a subpoena or a court order. In all cases, the
1184 prospective adoptive parents must receive all available
1185 information by the date of the final hearing on the petition for
1186 adoption. The information to be disclosed includes:

1187 1. A family social and medical history form completed
1188 pursuant to s. 63.162(6).

1189 2. The biological mother's medical records documenting her
1190 prenatal care and the birth and delivery of the child.

1191 3. A complete set of the child's medical records
1192 documenting all medical treatment and care since the child's
1193 birth and before placement.

1194 4. All mental health, psychological, and psychiatric
1195 records, reports, and evaluations concerning the child before
1196 placement.

1197 5. The child's educational records, including all records
1198 concerning any special education needs of the child before
1199 placement.

1200 6. Records documenting all incidents that required the
1201 department to provide services to the child, including all
1202 orders of adjudication of dependency or termination of parental
1203 rights issued pursuant to chapter 39, any case plans drafted to
1204 address the child's needs, all protective services

1205 investigations identifying the child as a victim, and all
 1206 guardian ad litem reports filed with the court concerning the
 1207 child.

1208 7. Written information concerning the availability of
 1209 adoption subsidies for the child, if applicable.

1210 (c) If the prospective adoptive parents waive the receipt
 1211 of any of the records described in paragraph (a), a copy of the
 1212 written notification of the waiver to the adoption entity shall
 1213 be filed with the court.

1214 Section 15. Subsection (6) of section 63.087, Florida
 1215 Statutes, is amended to read:

1216 63.087 Proceeding to terminate parental rights pending
 1217 adoption; general provisions.—

1218 (6) ANSWER AND APPEARANCE REQUIRED.—An answer to the
 1219 petition or any pleading requiring an answer must be filed in
 1220 accordance with the Florida Family Law Rules of Procedure.
 1221 Failure to file a written response to the petition constitutes
 1222 grounds upon which the court may terminate parental rights.
 1223 Failure to personally appear at the hearing constitutes grounds
 1224 upon which the court may terminate parental rights. Any person
 1225 present at the hearing to terminate parental rights pending
 1226 adoption whose consent to adoption is required under s. 63.062
 1227 must:

1228 (a) Be advised by the court that he or she has a right to
 1229 ask that the hearing be reset for a later date so that the
 1230 person may consult with an attorney; and

1231 (b) Be given an opportunity to admit or deny the
 1232 allegations in the petition.

1233 Section 16. Subsection (4) of section 63.088, Florida
 1234 Statutes, is amended to read:

1235 63.088 Proceeding to terminate parental rights pending
 1236 adoption; notice and service; diligent search.—

1237 (4) REQUIRED INQUIRY.—In proceedings initiated under s.
 1238 63.087, the court shall conduct an inquiry of the person who is
 1239 placing the minor for adoption and of any relative or person
 1240 having legal custody of the minor who is present at the hearing
 1241 and likely to have the following information regarding the
 1242 identity of:

1243 (a) Any man to whom the mother of the minor was married at
 1244 any time when conception of the minor may have occurred or at
 1245 the time of the birth of the minor;

1246 (b) Any man who has filed an affidavit of paternity
 1247 pursuant to s. 382.013(2)(c) before the date that a petition for
 1248 termination of parental rights is filed with the court;

1249 (c) Any man who has adopted the minor;

1250 (d) Any man who has been adjudicated by a court as the
 1251 father of the minor child before the date a petition for
 1252 termination of parental rights is filed with the court; and

1253 (e) Any man whom the mother identified to the adoption
 1254 entity as a potential biological father before the date she
 1255 signed the consent for adoption.

1256
 1257 The information sought under this subsection may be provided to
 1258 the court in the form of a sworn affidavit by a person having
 1259 personal knowledge of the facts, addressing each inquiry
 1260 enumerated in this subsection, except that, if the inquiry

1261 identifies a father under paragraph (a), paragraph (b), ~~or~~
 1262 paragraph (c), or paragraph (d), the inquiry may not continue
 1263 further. The inquiry required under this subsection may be
 1264 conducted before the birth of the minor.

1265 Section 17. Paragraph (d) of subsection (3) and
 1266 subsections (4), (5), and (7) of section 63.089, Florida
 1267 Statutes, are amended to read:

1268 63.089 Proceeding to terminate parental rights pending
 1269 adoption; hearing; grounds; dismissal of petition; judgment.—

1270 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
 1271 ADOPTION.—The court may enter a judgment terminating parental
 1272 rights pending adoption if the court determines by clear and
 1273 convincing evidence, supported by written findings of fact, that
 1274 each person whose consent to adoption is required under s.
 1275 63.062:

1276 (d) Has been properly served notice of the proceeding in
 1277 accordance with the requirements of this chapter and has failed
 1278 to file a written answer or personally appear at the evidentiary
 1279 hearing resulting in the judgment terminating parental rights
 1280 pending adoption;

1281 (4) FINDING OF ABANDONMENT.—A finding of abandonment
 1282 resulting in a termination of parental rights must be based upon
 1283 clear and convincing evidence that a parent or person having
 1284 legal custody has abandoned the child in accordance with the
 1285 definition contained in s. 63.032. A finding of abandonment may
 1286 also be based upon emotional abuse or a refusal to provide
 1287 reasonable financial support, when able, to a birth mother
 1288 during her pregnancy or on whether the person alleged to have

1289 abandoned the child, while being able, failed to establish
 1290 contact with the child or accept responsibility for the child's
 1291 welfare.

1292 (a) In making a determination of abandonment at a hearing
 1293 for termination of parental rights under this chapter, the court
 1294 shall consider, among other relevant factors not inconsistent
 1295 with this section:

1296 1. Whether the actions alleged to constitute abandonment
 1297 demonstrate a willful disregard for the safety or welfare of the
 1298 child or the unborn child;

1299 2. Whether the person alleged to have abandoned the child,
 1300 while being able, failed to provide financial support;

1301 3. Whether the person alleged to have abandoned the child,
 1302 while being able, failed to pay for medical treatment; and

1303 4. Whether the amount of support provided or medical
 1304 expenses paid was appropriate, taking into consideration the
 1305 needs of the child and relative means and resources available to
 1306 the person alleged to have abandoned the child.

1307 (b) The child has been abandoned when the parent of a
 1308 child is incarcerated on or after October 1, 2001, in a federal,
 1309 state, or county correctional institution and:

1310 1. The period of time for which the parent has been or is
 1311 expected to be incarcerated will constitute a significant
 1312 portion of the child's minority. In determining whether the
 1313 period of time is significant, the court shall consider the
 1314 child's age and the child's need for a permanent and stable
 1315 home. The period of time begins on the date that the parent
 1316 enters into incarceration;

CS/CS/CS/HB 1163

2012

1317 2. The incarcerated parent has been determined by a court
1318 of competent jurisdiction to be a violent career criminal as
1319 defined in s. 775.084, a habitual violent felony offender as
1320 defined in s. 775.084, convicted of child abuse as defined in s.
1321 827.03, or a sexual predator as defined in s. 775.21; has been
1322 convicted of first degree or second degree murder in violation
1323 of s. 782.04 or a sexual battery that constitutes a capital,
1324 life, or first degree felony violation of s. 794.011; or has
1325 been convicted of a substantially similar offense in another
1326 jurisdiction. As used in this section, the term "substantially
1327 similar offense" means any offense that is substantially similar
1328 in elements and penalties to one of those listed in this
1329 subparagraph, and that is in violation of a law of any other
1330 jurisdiction, whether that of another state, the District of
1331 Columbia, the United States or any possession or territory
1332 thereof, or any foreign jurisdiction; or

1333 3. The court determines by clear and convincing evidence
1334 that continuing the parental relationship with the incarcerated
1335 parent would be harmful to the child and, for this reason,
1336 termination of the parental rights of the incarcerated parent is
1337 in the best interests ~~interest~~ of the child.

1338 (5) DISMISSAL OF PETITION.—If the court does not find by
1339 clear and convincing evidence that parental rights of a parent
1340 should be terminated pending adoption, the court must dismiss
1341 the petition and that parent's parental rights that were the
1342 subject of such petition shall remain in full force under the
1343 law. The order must include written findings in support of the
1344 dismissal, including findings as to the criteria in subsection

CS/CS/CS/HB 1163

2012

1345 (4) if rejecting a claim of abandonment.

1346 (a) Parental rights may not be terminated based upon a
1347 consent that the court finds has been timely revoked ~~withdrawn~~
1348 under s. 63.082 or a consent to adoption or affidavit of
1349 nonpaternity that the court finds was obtained by fraud or
1350 duress.

1351 (b) The court must enter an order based upon written
1352 findings providing for the placement of the minor, but the court
1353 may not proceed to determine custody between competing eligible
1354 parties. The placement of the child should revert to the parent
1355 or guardian who had physical custody of the child at the time of
1356 the placement for adoption unless the court determines upon
1357 clear and convincing evidence that this placement is not in the
1358 best interests of the child or is not an available option for
1359 the child. The court may not change the placement of a child who
1360 has established a bonded relationship with the current caregiver
1361 without providing for a reasonable transition plan consistent
1362 with the best interests of the child. The court may direct the
1363 parties to participate in a reunification or unification plan
1364 with a qualified professional to assist the child in the
1365 transition. The court may order scientific testing to determine
1366 the paternity of the minor only if the court has determined that
1367 the consent of the alleged father would be required, unless all
1368 parties agree that such testing is in the best interests of the
1369 child. The court may not order scientific testing to determine
1370 paternity of an unmarried biological father if the child has a
1371 father as described in s. 63.088(4)(a)-(d) whose rights have not
1372 been previously terminated ~~at any time during which the court~~

CS/CS/CS/HB 1163

2012

1373 ~~has jurisdiction over the minor.~~ Further proceedings, if any,
1374 regarding the minor must be brought in a separate custody action
1375 under chapter 61, a dependency action under chapter 39, or a
1376 paternity action under chapter 742.

1377 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

1378 (a) A motion for relief from a judgment terminating
1379 parental rights must be filed with the court originally entering
1380 the judgment. The motion must be filed within a reasonable time,
1381 but not later than 1 year after the entry of the judgment. An
1382 unmarried biological father does not have standing to seek
1383 relief from a judgment terminating parental rights if the mother
1384 did not identify him to the adoption entity before the date she
1385 signed a consent for adoption or if he was not located because
1386 the mother failed or refused to provide sufficient information
1387 to locate him.

1388 (b) No later than 30 days after the filing of a motion
1389 under this subsection, the court must conduct a preliminary
1390 hearing to determine what contact, if any, shall be permitted
1391 between a parent and the child pending resolution of the motion.
1392 Such contact shall be considered only if it is requested by a
1393 parent who has appeared at the hearing and may not be awarded
1394 unless the parent previously established a bonded relationship
1395 with the child and the parent has pled a legitimate legal basis
1396 and established a prima facia case for setting aside the
1397 judgment terminating parental rights. If the court orders
1398 contact between a parent and child, the order must be issued in
1399 writing as expeditiously as possible and must state with
1400 specificity any provisions regarding contact with persons other

1401 than those with whom the child resides.

1402 (c) At the preliminary hearing, the court, upon the motion
1403 of any party or upon its own motion, may order scientific
1404 testing to determine the paternity of the minor if the person
1405 seeking to set aside the judgment is alleging to be the child's
1406 father and that fact has not previously been determined by
1407 legitimacy or scientific testing. The court may order visitation
1408 with a person for whom scientific testing for paternity has been
1409 ordered and who has previously established a bonded relationship
1410 with the child.

1411 (d) Unless otherwise agreed between the parties or for
1412 good cause shown, the court shall conduct a final hearing on the
1413 motion for relief from judgment within 45 days after the filing
1414 and enter its written order as expeditiously as possible
1415 thereafter.

1416 (e) If the court grants relief from the judgment
1417 terminating parental rights and no new pleading is filed to
1418 terminate parental rights, the placement of the child should
1419 revert to the parent or guardian who had physical custody of the
1420 child at the time of the original placement for adoption unless
1421 the court determines upon clear and convincing evidence that
1422 this placement is not in the best interests of the child or is
1423 not an available option for the child. The court may not change
1424 the placement of a child who has established a bonded
1425 relationship with the current caregiver without providing for a
1426 reasonable transition plan consistent with the best interests of
1427 the child. The court may direct the parties to participate in a
1428 reunification or unification plan with a qualified professional

1429 to assist the child in the transition. The court may not direct
1430 the placement of a child with a person other than the adoptive
1431 parents without first obtaining a favorable home study of that
1432 person and any other persons residing in the proposed home and
1433 shall take whatever additional steps are necessary and
1434 appropriate for the physical and emotional protection of the
1435 child.

1436 Section 18. Subsection (3) of section 63.092, Florida
1437 Statutes, is amended to read:

1438 63.092 Report to the court of intended placement by an
1439 adoption entity; at-risk placement; preliminary study.—

1440 (3) PRELIMINARY HOME STUDY.—Before placing the minor in
1441 the intended adoptive home, a preliminary home study must be
1442 performed by a licensed child-placing agency, a child-caring
1443 agency registered under s. 409.176, a licensed professional, or
1444 agency described in s. 61.20(2), unless the adoptee is an adult
1445 or the petitioner is a stepparent or a relative. If the adoptee
1446 is an adult or the petitioner is a stepparent or a relative, a
1447 preliminary home study may be required by the court for good
1448 cause shown. The department is required to perform the
1449 preliminary home study only if there is no licensed child-
1450 placing agency, child-caring agency registered under s. 409.176,
1451 licensed professional, or agency described in s. 61.20(2), in
1452 the county where the prospective adoptive parents reside. The
1453 preliminary home study must be made to determine the suitability
1454 of the intended adoptive parents and may be completed prior to
1455 identification of a prospective adoptive minor. A favorable
1456 preliminary home study is valid for 1 year after the date of its

1457 completion. Upon its completion, a signed copy of the home study
1458 must be provided to the intended adoptive parents who were the
1459 subject of the home study. A minor may not be placed in an
1460 intended adoptive home before a favorable preliminary home study
1461 is completed unless the adoptive home is also a licensed foster
1462 home under s. 409.175. The preliminary home study must include,
1463 at a minimum:

- 1464 (a) An interview with the intended adoptive parents;
- 1465 (b) Records checks of the department's central abuse
1466 registry and criminal records correspondence checks under s.
1467 39.0138 through the Department of Law Enforcement on the
1468 intended adoptive parents;
- 1469 (c) An assessment of the physical environment of the home;
- 1470 (d) A determination of the financial security of the
1471 intended adoptive parents;
- 1472 (e) Documentation of counseling and education of the
1473 intended adoptive parents on adoptive parenting;
- 1474 (f) Documentation that information on adoption and the
1475 adoption process has been provided to the intended adoptive
1476 parents;
- 1477 (g) Documentation that information on support services
1478 available in the community has been provided to the intended
1479 adoptive parents; and
- 1480 (h) A copy of each signed acknowledgment of receipt of
1481 disclosure required by s. 63.085.

1482 If the preliminary home study is favorable, a minor may be
1483 placed in the home pending entry of the judgment of adoption. A
1484 minor may not be placed in the home if the preliminary home

1485 study is unfavorable. If the preliminary home study is
 1486 unfavorable, the adoption entity may, within 20 days after
 1487 receipt of a copy of the written recommendation, petition the
 1488 court to determine the suitability of the intended adoptive
 1489 home. A determination as to suitability under this subsection
 1490 does not act as a presumption of suitability at the final
 1491 hearing. In determining the suitability of the intended adoptive
 1492 home, the court must consider the totality of the circumstances
 1493 in the home. A ~~No~~ minor may not be placed in a home in which
 1494 there resides any person determined by the court to be a sexual
 1495 predator as defined in s. 775.21 or to have been convicted of an
 1496 offense listed in s. 63.089(4)(b)2.

1497 Section 19. Subsection (7) is added to section 63.097,
 1498 Florida Statutes, to read:

1499 63.097 Fees.—

1500 (7) In determining reasonable attorney fees, courts shall
 1501 use the following criteria:

1502 (a) The time and labor required, the novelty and
 1503 difficulty of the question involved, and the skill requisite to
 1504 perform the legal service properly.

1505 (b) The likelihood, if apparent to the client, that the
 1506 acceptance of the particular employment will preclude other
 1507 employment by the attorney.

1508 (c) The fee customarily charged in the locality for
 1509 similar legal services.

1510 (d) The amount involved in the subject matter of the
 1511 representation, the responsibility involved in the
 1512 representation, and the results obtained.

1513 (e) The time limitations imposed by the client or by the
 1514 circumstances and, as between attorney and client, any
 1515 additional or special time demands or requests of the attorney
 1516 by the client.

1517 (f) The nature and length of the professional relationship
 1518 with the client.

1519 (g) The experience, reputation, diligence, and ability of
 1520 the attorney or attorneys performing the service and the skill,
 1521 expertise, or efficiency of effort reflected in the actual
 1522 providing of such services.

1523 (h) Whether the fee is fixed or contingent.

1524 Section 20. Section 63.152, Florida Statutes, is amended
 1525 to read:

1526 63.152 Application for new birth record.—Within 30 days
 1527 after entry of a judgment of adoption, the clerk of the court or
 1528 the adoption entity shall transmit a certified statement of the
 1529 entry to the state registrar of vital statistics on a form
 1530 provided by the registrar. A new birth record containing the
 1531 necessary information supplied by the certificate shall be
 1532 issued by the registrar on application of the adopting parents
 1533 or the adopted person.

1534 Section 21. Subsection (7) of section 63.162, Florida
 1535 Statutes, is amended to read:

1536 63.162 Hearings and records in adoption proceedings;
 1537 confidential nature.—

1538 (7) The court may, upon petition of an adult adoptee or
 1539 birth parent, for good cause shown, appoint an intermediary or a
 1540 licensed child-placing agency to contact a birth parent or adult

CS/CS/CS/HB 1163

2012

1541 adoptee, as applicable, who has not registered with the adoption
 1542 registry pursuant to s. 63.165 and advise both ~~them~~ of the
 1543 availability of the intermediary or agency and that the birth
 1544 parent or adult adoptee, as applicable, wishes to establish
 1545 contact ~~same~~.

1546 Section 22. Paragraph (c) of subsection (2) of section
 1547 63.167, Florida Statutes, is amended to read:

1548 63.167 State adoption information center.—

1549 (2) The functions of the state adoption information center
 1550 shall include:

1551 (c) Operating a toll-free telephone number to provide
 1552 information and referral services. The state adoption
 1553 information center shall provide contact information for all
 1554 adoption entities in the caller's county or, if no adoption
 1555 entities are located in the caller's county, the number of the
 1556 nearest adoption entity when contacted for a referral to make an
 1557 adoption plan and shall rotate the order in which the names of
 1558 adoption entities are provided to callers.

1559 Section 23. Subsection (1) of section 63.202, Florida
 1560 Statutes, is amended to read:

1561 63.202 Authority to license; adoption of rules.—

1562 (1) The Department of Children and Family Services is
 1563 authorized and empowered to license child placement ~~welfare~~
 1564 agencies that it determines to be qualified to place minors for
 1565 adoption.

1566 Section 24. Paragraph (g) of subsection (1) and
 1567 subsections (2) and (8) of section 63.212, Florida Statutes, are
 1568 amended to read:

1569 63.212 Prohibited acts; penalties for violation.—
 1570 (1) It is unlawful for any person:
 1571 (g) Except an adoption entity, to advertise or offer to
 1572 the public, in any way, by any medium whatever that a minor is
 1573 available for adoption or that a minor is sought for adoption;
 1574 and, further, it is unlawful for any person to publish or
 1575 broadcast any such advertisement or assist an unlicensed person
 1576 or entity in publishing or broadcasting any such advertisement
 1577 without including a Florida license number of the agency or
 1578 attorney placing the advertisement.
 1579 1. Only a person who is an attorney licensed to practice
 1580 law in this state or an adoption entity licensed under the laws
 1581 of this state may place a paid advertisement or paid listing of
 1582 the person's telephone number, on the person's own behalf, in a
 1583 telephone directory that:
 1584 a. A child is offered or wanted for adoption; or
 1585 b. The person is able to place, locate, or receive a child
 1586 for adoption.
 1587 2. A person who publishes a telephone directory that is
 1588 distributed in this state:
 1589 a. Shall include, at the beginning of any classified
 1590 heading for adoption and adoption services, a statement that
 1591 informs directory users that only attorneys licensed to practice
 1592 law in this state and licensed adoption entities may legally
 1593 provide adoption services under state law.
 1594 b. May publish an advertisement described in subparagraph
 1595 1. in the telephone directory only if the advertisement contains
 1596 the following:

1597 (I) For an attorney licensed to practice law in this
 1598 state, the person's Florida Bar number.

1599 (II) For a child placing agency licensed under the laws of
 1600 this state, the number on the person's adoption entity license.

1601 (2) Any person who is a birth mother, or a woman who holds
 1602 herself out to be a birth mother, who is interested in making an
 1603 adoption plan and who knowingly or intentionally benefits from
 1604 the payment of adoption-related expenses in connection with that
 1605 adoption plan commits adoption deception if:

1606 (a) The person knows or should have known that the person
 1607 is not pregnant at the time the sums were requested or received;

1608 (b) The person accepts living expenses assistance from a
 1609 prospective adoptive parent or adoption entity without
 1610 disclosing that she is receiving living expenses assistance from
 1611 another prospective adoptive parent or adoption entity at the
 1612 same time in an effort to adopt the same child; or

1613 (c) The person knowingly makes false representations to
 1614 induce the payment of living expenses and does not intend to
 1615 make an adoptive placement. It is unlawful for:

1616 ~~(a) Any person or adoption entity under this chapter to:~~

1617 ~~1. Knowingly provide false information; or~~

1618 ~~2. Knowingly withhold material information.~~

1619 ~~(b) A parent, with the intent to defraud, to accept~~
 1620 ~~benefits related to the same pregnancy from more than one~~
 1621 ~~adoption entity without disclosing that fact to each entity.~~

1622
 1623 Any person who willfully commits adoption deception ~~violates any~~
 1624 ~~provision of this subsection~~ commits a misdemeanor of the second

CS/CS/CS/HB 1163

2012

1625 degree, punishable as provided in s. 775.082 or s. 775.083, if
1626 the sums received by the birth mother or woman holding herself
1627 out to be a birth mother do not exceed \$300, and a felony of the
1628 third degree, punishable as provided in s. 775.082, s. 775.083,
1629 or s. 775.084, if the sums received by the birth mother or woman
1630 holding herself out to be a birth mother exceed \$300. In
1631 addition, the person is liable for damages caused by such acts
1632 or omissions, including reasonable attorney ~~attorney's~~ fees and
1633 costs incurred by the adoption entity or the prospective
1634 adoptive parent. Damages may be awarded through restitution in
1635 any related criminal prosecution or by filing a separate civil
1636 action.

1637 (8) Unless otherwise indicated, a person who willfully and
1638 with criminal intent violates any provision of this section,
1639 excluding paragraph (1)(g), commits a felony of the third
1640 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1641 775.084. A person who willfully and with criminal intent
1642 violates paragraph (1)(g) commits a misdemeanor of the second
1643 degree, punishable as provided in s. 775.083; and each day of
1644 continuing violation shall be considered a separate offense. In
1645 addition, any person who knowingly publishes or assists with the
1646 publication of any advertisement or other publication which
1647 violates the requirements of paragraph (1)(g) commits a
1648 misdemeanor of the second degree, punishable as provided in s.
1649 775.083, and may be required to pay a fine of up to \$150 per day
1650 for each day of continuing violation.

1651 Section 25. Paragraph (b) of subsection (1), paragraphs
1652 (a) and (e) of subsection (2), and paragraphs (b), (h), and (i)

1653 of subsection (6) of section 63.213, Florida Statutes, are
 1654 amended to read:

1655 63.213 Preplanned adoption agreement.—

1656 (1) Individuals may enter into a preplanned adoption
 1657 arrangement as specified in this section, but such arrangement
 1658 may not in any way:

1659 (b) Constitute consent of a mother to place her biological
 1660 child for adoption until 48 hours after the ~~following~~ birth of
 1661 the child and unless the court making the custody determination
 1662 or approving the adoption determines that the mother was aware
 1663 of her right to rescind within the 48-hour period after the
 1664 ~~following~~ birth of the child but chose not to rescind such
 1665 consent. The volunteer mother's right to rescind her consent in
 1666 a preplanned adoption applies only when the child is genetically
 1667 related to her.

1668 (2) A preplanned adoption agreement must include, but need
 1669 not be limited to, the following terms:

1670 (a) That the volunteer mother agrees to become pregnant by
 1671 the fertility technique specified in the agreement, to bear the
 1672 child, and to terminate any parental rights and responsibilities
 1673 to the child she might have through a written consent executed
 1674 at the same time as the preplanned adoption agreement, subject
 1675 to a right of rescission by the volunteer mother any time within
 1676 48 hours after the birth of the child, if the volunteer mother
 1677 is genetically related to the child.

1678 (e) That the intended father and intended mother
 1679 acknowledge that they may not receive custody or the parental
 1680 rights under the agreement if the volunteer mother terminates

CS/CS/CS/HB 1163

2012

1681 the agreement or if the volunteer mother rescinds her consent to
 1682 place her child for adoption within 48 hours after the birth of
 1683 the child, if the volunteer mother is genetically related to the
 1684 child.

1685 (6) As used in this section, the term:

1686 (b) "Child" means the child or children conceived by means
 1687 of a fertility technique ~~an insemination~~ that is part of a
 1688 preplanned adoption arrangement.

1689 (h) "Preplanned adoption arrangement" means the
 1690 arrangement through which the parties enter into an agreement
 1691 for the volunteer mother to bear the child, for payment by the
 1692 intended father and intended mother of the expenses allowed by
 1693 this section, for the intended father and intended mother to
 1694 assert full parental rights and responsibilities to the child if
 1695 consent to adoption is not rescinded after birth by a the
 1696 volunteer mother who is genetically related to the child, and
 1697 for the volunteer mother to terminate, subject to any ~~a~~ right of
 1698 rescission, all her parental rights and responsibilities to the
 1699 child in favor of the intended father and intended mother.

1700 (i) "Volunteer mother" means a female at least 18 years of
 1701 age who voluntarily agrees, subject to a right of rescission if
 1702 it is her biological child, that if she should become pregnant
 1703 pursuant to a preplanned adoption arrangement, she will
 1704 terminate her parental rights and responsibilities to the child
 1705 in favor of the intended father and intended mother.

1706 Section 26. Section 63.222, Florida Statutes, is amended
 1707 to read:

1708 63.222 Effect on prior adoption proceedings.—Any adoption

CS/CS/CS/HB 1163

2012

1709 made before July 1, 2012, is ~~the effective date of this act~~
 1710 ~~shall be~~ valid, and any proceedings pending on that ~~the~~
 1711 ~~effective date and any subsequent amendments thereto of this act~~
 1712 are not affected thereby unless the amendment is designated as a
 1713 remedial provision.

1714 Section 27. Section 63.2325, Florida Statutes, is amended
 1715 to read:

1716 63.2325 Conditions for invalidation ~~revocation~~ of a
 1717 consent to adoption or affidavit of nonpaternity.—
 1718 Notwithstanding the requirements of this chapter, a failure to
 1719 meet any of those requirements does not constitute grounds for
 1720 invalidation ~~revocation~~ of a consent to adoption or revocation
 1721 ~~withdrawal~~ of an affidavit of nonpaternity unless the extent and
 1722 circumstances of such a failure result in a material failure of
 1723 fundamental fairness in the administration of due process, or
 1724 the failure constitutes or contributes to fraud or duress in
 1725 obtaining a consent to adoption or affidavit of nonpaternity.

1726 Section 28. This act shall take effect July 1, 2012.