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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2012	.	
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The Committee on Judiciary (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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

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



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

19 (c) That the manifest best interests of the child, in
20 accordance with s. 39.810, would be served by the granting of
21 the petition.

22 (d) That the parents of the child were informed of the
23 availability of private placement of the child with an adoption
24 entity, as defined in s. 63.032(3).

25 Section 2. Paragraphs (e) through (m) of subsection (4) of
26 section 63.022, Florida Statutes, are redesignated as paragraphs
27 (d) through (l), respectively, and subsection (2) and present
28 paragraph (d) of subsection (4) of that section are amended to
29 read:

30 63.022 Legislative intent.—

31 (2) It is the intent of the Legislature that in every
32 adoption, the best interest of the child should govern and be of
33 foremost concern in the court's determination. The court shall
34 make a specific finding as to the best interests ~~interest~~ of the
35 child in accordance with the provisions of this chapter.

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

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

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



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43 63.032 Definitions.—As used in this chapter, the term:

44 (1) "Abandoned" means a situation in which the parent or
45 person having legal custody of a child, while being able, makes
46 little or no provision for the child's support or ~~and~~ makes
47 little or no effort to communicate with the child, which
48 situation is sufficient to evince an intent to reject parental
49 responsibilities. If, in the opinion of the court, the efforts
50 of such parent or person having legal custody of the child to
51 support and communicate with the child are only marginal efforts
52 that do not evince a settled purpose to assume all parental
53 duties, the court may declare the child to be abandoned. In
54 making this decision, the court may consider the conduct of a
55 father towards the child's mother during her pregnancy.

56 (3) "Adoption entity" means the department, ~~an agency,~~ a
57 child-caring agency registered under s. 409.176, an
58 intermediary, a Florida-licensed child-placing agency, or a
59 child-placing agency licensed in another state which is
60 qualified by the department to place children in the State of
61 Florida.

62 (12) "Parent" means a woman who gives birth to a child and
63 who is not a gestational surrogate as defined in s. 742.13 or a
64 man whose consent to the adoption of the child would be required
65 under s. 63.062(1). If a child has been legally adopted, the
66 term "parent" means the adoptive mother or father of the child.
67 The term does not include an individual whose parental
68 relationship to the child has been legally terminated or an
69 alleged or prospective parent.

70 (17) "Suitability of the intended placement" means the
71 fitness of the intended placement, with primary consideration



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72 being given to the best interests ~~interest~~ of the child.

73 (19) "Unmarried biological father" means the child's
74 biological father who is not married to the child's mother at
75 the time of conception or on the date of the birth of the child
76 and who, before the filing of a petition to terminate parental
77 rights, has not been adjudicated by a court of competent
78 jurisdiction to be the legal father of the child or has not
79 filed ~~executed~~ an affidavit pursuant to s. 382.013(2)(c).

80 Section 4. Section 63.037, Florida Statutes, is amended to
81 read:

82 63.037 Proceedings applicable to cases resulting from a
83 termination of parental rights under chapter 39.—A case in which
84 a minor becomes available for adoption after the parental rights
85 of each parent have been terminated by a judgment entered
86 pursuant to chapter 39 shall be governed by s. 39.812 and this
87 chapter. Adoption proceedings initiated under chapter 39 are
88 exempt from the following provisions of this chapter: the search
89 of the Florida Putative Father Registry required in s.
90 63.054(7), if a search was previously completed and
91 documentation of the search is contained in the case file;
92 disclosure requirements for the adoption entity provided in s.
93 63.085(1); general provisions governing termination of parental
94 rights pending adoption provided in s. 63.087; notice and
95 service provisions governing termination of parental rights
96 pending adoption provided in s. 63.088; and procedures for
97 terminating parental rights pending adoption provided in s.
98 63.089.

99 Section 5. Subsections (2) through (4) of section 63.039,
100 Florida Statutes, are renumbered as subsections (3) through (5),



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101 respectively, and a new subsection (2) is added to that section
102 to read:

103 63.039 Duty of adoption entity to prospective adoptive
104 parents; sanctions.—

105 (2) With the exception of an adoption by a relative or
106 stepparent, all adoptions of minor children require the use of
107 an adoption entity that will assume the responsibilities
108 provided in this section.

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

111 63.0423 Procedures with respect to surrendered infants.—

112 (2) The licensed child-placing agency shall immediately
113 seek an order from the circuit court for emergency custody of
114 the surrendered infant. The emergency custody order shall remain
115 in effect until the court orders preliminary approval of
116 placement of the surrendered infant in the prospective home, at
117 which time the prospective adoptive parents become guardians
118 pending termination of parental rights and finalization of
119 adoption or until the court orders otherwise. The guardianship
120 of the prospective adoptive parents shall remain subject to the
121 right of the licensed child-placing agency to remove the
122 surrendered infant from the placement during the pendency of the
123 proceedings if such removal is deemed by the licensed child-
124 placing agency to be in the best interests ~~interest~~ of the
125 child. The licensed child-placing agency may immediately seek to
126 place the surrendered infant in a prospective adoptive home.

127 (4) The parent who surrenders the infant in accordance with
128 s. 383.50 is presumed to have consented to termination of
129 parental rights, and express consent is not required. Except



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130 when there is actual or suspected child abuse or neglect, the
131 licensed child-placing agency shall not attempt to pursue,
132 search for, or notify that parent as provided in s. 63.088 and
133 chapter 49. For purposes of s. 383.50 and this section, an
134 infant who tests positive for illegal drugs, narcotic
135 prescription drugs, alcohol, or other substances, but shows no
136 other signs of child abuse or neglect, shall be placed in the
137 custody of a licensed child placing agency. This provision does
138 not eliminate the reporting requirement under s. 383.50(7). When
139 the department is contacted regarding an infant properly
140 surrendered under this section and s. 383.50, the department
141 shall provide instruction to contact a licensed child placing
142 agency and may not take custody of the infant unless reasonable
143 efforts to contact a licensed child placing agency to accept the
144 infant have not been successful.

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

150 (a) The court may order scientific testing to determine
151 maternity or paternity at the expense of the parent claiming
152 parental rights.

153 (b) The court shall appoint a guardian ad litem for the
154 surrendered infant and order whatever investigation, home
155 evaluation, and psychological evaluation are necessary to
156 determine what is in the best interests ~~interest~~ of the
157 surrendered infant.

158 (c) The court may not terminate parental rights solely on



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159 the basis that the parent left the infant at a hospital,
160 emergency medical services station, or fire station in
161 accordance with s. 383.50.

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

164 (8) Within 7 business days after recording the judgment,
165 the clerk of the court shall mail a copy of the judgment to the
166 department, the petitioner, and any person ~~the persons~~ whose
167 consent was ~~were~~ required, if known. The clerk shall execute a
168 certificate of each mailing.

169 (9) (a) A judgment terminating parental rights pending
170 adoption is voidable, and any later judgment of adoption of that
171 minor is voidable, if, upon the motion of a ~~birth~~ parent, the
172 court finds that a person knowingly gave false information that
173 prevented the ~~birth~~ parent from timely making known his or her
174 desire to assume parental responsibilities toward the minor or
175 from exercising his or her parental rights. A motion under this
176 subsection must be filed with the court originally entering the
177 judgment. The motion must be filed within a reasonable time but
178 not later than 1 year after the entry of the judgment
179 terminating parental rights.

180 (b) No later than 30 days after the filing of a motion
181 under this subsection, the court shall conduct a preliminary
182 hearing to determine what contact, if any, will be permitted
183 between a ~~birth~~ parent and the child pending resolution of the
184 motion. Such contact may be allowed only if it is requested by a
185 parent who has appeared at the hearing and the court determines
186 that it is in the best interests ~~interest~~ of the child. If the
187 court orders contact between a ~~birth~~ parent and the child, the



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188 order must be issued in writing as expeditiously as possible and
189 must state with specificity any provisions regarding contact
190 with persons other than those with whom the child resides.

191 ~~(c) At the preliminary hearing, The court, upon the motion~~
192 ~~of any party or upon its own motion, may not~~ order scientific
193 testing to determine the paternity or maternity of the minor
194 until such time as the court determines that a previously
195 entered judgment terminating the parental rights of that parent
196 is voidable pursuant to paragraph (a), unless all parties agree
197 that such testing is in the best interests of the child if the
198 ~~person seeking to set aside the judgment is alleging to be the~~
199 ~~child's birth parent but has not previously been determined by~~
200 ~~legal proceedings or scientific testing to be the birth parent.~~
201 Upon the filing of test results establishing that person's
202 maternity or paternity of the surrendered infant, the court may
203 order visitation only if it appears to be as it deems
204 ~~appropriate and~~ in the best interests ~~interest~~ of the child.

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

209 Section 7. Subsection (1) of section 63.0425, Florida
210 Statutes, is amended to read:

211 63.0425 Grandparent's right to notice.—

212 (1) If a child has lived with a grandparent for at least 6
213 continuous months within the 24-month period immediately
214 preceding the filing of a petition for termination of parental
215 rights pending adoption, the adoption entity shall provide
216 notice to that grandparent of the hearing on the petition.



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217 Section 8. Section 63.0427, Florida Statutes, is amended to
218 read:

219 63.0427 Agreements for ~~Adopted minor's right to~~ continued
220 communication or contact between adopted child and ~~with~~
221 siblings, parents, and other relatives.-

222 (1) A child whose parents have had their parental rights
223 terminated and whose custody has been awarded to the department
224 pursuant to s. 39.811, and who is the subject of a petition for
225 adoption under this chapter, shall have the right to have the
226 court consider the appropriateness of postadoption communication
227 or contact, including, but not limited to, visits, written
228 correspondence, or telephone calls, with his or her siblings or,
229 upon agreement of the adoptive parents, with the parents who
230 have had their parental rights terminated or other specified
231 biological relatives. The court shall consider the following in
232 making such determination:

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

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

236 (c) Statements of the prospective adoptive parents.

237 (d) Any other information deemed relevant and material by
238 the court.

239

240 If the court determines that the child's best interests will be
241 served by postadoption communication or contact, the court shall
242 so order, stating the nature and frequency of ~~for~~ the
243 communication or contact. This order shall be made a part of the
244 final adoption order, but ~~in no event shall~~ the continuing
245 validity of the adoption may not be contingent upon such



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246 postadoption communication or contact ~~and, nor shall~~ the ability
247 of the adoptive parents and child to change residence within or
248 outside the State of Florida may not be impaired by such
249 communication or contact.

250 (2) Notwithstanding ~~the provisions of~~ s. 63.162, the
251 adoptive parent may, at any time, petition for review of a
252 communication or contact order entered pursuant to subsection
253 (1), if the adoptive parent believes that the best interests of
254 the adopted child are being compromised, and the court may shall
255 ~~have authority to~~ order the communication or contact to be
256 terminated or modified, as the court deems to be in the best
257 interests of the adopted child; however, the court may not
258 increase contact between the adopted child and siblings, birth
259 parents, or other relatives without the consent of the adoptive
260 parent or parents. As part of the review process, the court may
261 order the parties to engage in mediation. The department shall
262 not be required to be a party to such review.

263 Section 9. Subsections (1), (2), (3), and (6) of section
264 63.052, Florida Statutes, are amended to read:

265 63.052 Guardians designated; proof of commitment.—

266 (1) For minors who have been placed for adoption with ~~and~~
267 ~~permanently committed to~~ an adoption entity, other than an
268 intermediary, such adoption entity shall be the guardian of the
269 person of the minor and has the responsibility and authority to
270 provide for the needs and welfare of the minor.

271 (2) For minors who have been voluntarily surrendered to an
272 intermediary through an execution of a consent to adoption, the
273 intermediary shall be responsible for the minor until the time a
274 court orders preliminary approval of placement of the minor in



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275 the prospective adoptive home, after which time the prospective
276 adoptive parents shall become guardians pending finalization of
277 adoption, subject to the intermediary's right and responsibility
278 to remove the child from the prospective adoptive home if the
279 removal is deemed by the intermediary to be in the best
280 interests interest of the child. The intermediary may not remove
281 the child without a court order unless the child is in danger of
282 imminent harm. After the execution of adoption consents, the
283 intermediary is not responsible for the minor child's medical
284 bills that were incurred before taking physical custody of the
285 child. Before ~~Prior to~~ the court's entry of an order granting
286 preliminary approval of the placement, the intermediary shall
287 have the responsibility and authority to provide for the needs
288 and welfare of the minor. A No minor may not shall be placed in
289 a prospective adoptive home until that home has received a
290 favorable preliminary home study, as provided in s. 63.092,
291 completed and approved within 1 year before such placement in
292 the prospective home. The provisions of s. 627.6578 shall remain
293 in effect notwithstanding the guardianship provisions in this
294 section.

295 (3) If a minor is surrendered to an adoption entity for
296 subsequent adoption and a suitable prospective adoptive home is
297 not available pursuant to s. 63.092 at the time the minor is
298 surrendered to the adoption entity, the minor must be placed in
299 a licensed foster care home, or with a person or family that has
300 received a favorable preliminary home study pursuant to
301 subsection (2), or with a relative until such a suitable
302 prospective adoptive home is available.

303 (6) Unless otherwise authorized by law or ordered by the



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304 court, the department is not responsible for expenses incurred
305 by other adoption entities participating in a placement of a
306 minor.

307 Section 10. Subsections (2) and (3) of section 63.053,
308 Florida Statutes, are amended to read:

309 63.053 Rights and responsibilities of an unmarried
310 biological father; legislative findings.—

311 (2) The Legislature finds that the interests of the state,
312 the mother, the child, and the adoptive parents described in
313 this chapter outweigh the interest of an unmarried biological
314 father who does not take action in a timely manner to establish
315 and demonstrate a relationship with his child in accordance with
316 the requirements of this chapter. An unmarried biological father
317 has the primary responsibility to protect his rights and is
318 presumed to know that his child may be adopted without his
319 consent unless he strictly complies with ~~the provisions of this~~
320 chapter and demonstrates a prompt and full commitment to his
321 parental responsibilities.

322 (3) The Legislature finds that a birth mother and a birth
323 father have a right of ~~to~~ privacy.

324 Section 11. Subsections (1), (2), (4), and (13) of section
325 63.054, Florida Statutes, are amended to read:

326 63.054 Actions required by an unmarried biological father
327 to establish parental rights; Florida Putative Father Registry.—

328 (1) In order to preserve the right to notice and consent to
329 an adoption under this chapter, an unmarried biological father
330 must, as the "registrant," file a notarized claim of paternity
331 form with the Florida Putative Father Registry maintained by the
332 Office of Vital Statistics of the Department of Health which



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333 includes confirmation of his willingness and intent to support
334 the child for whom paternity is claimed in accordance with state
335 law. The claim of paternity may be filed at any time before the
336 child's birth, but may not be filed after the date a petition is
337 filed for termination of parental rights. In each proceeding for
338 termination of parental rights, the petitioner must submit to
339 the Office of Vital Statistics a copy of the petition for
340 termination of parental rights or a document executed by the
341 clerk of the court showing the style of the case, the names of
342 the persons whose rights are sought to be terminated, and the
343 date and time of the filing of the petition. The Office of Vital
344 Statistics may not record a claim of paternity after the date a
345 petition for termination of parental rights is filed. The
346 failure of an unmarried biological father to file a claim of
347 paternity with the registry before the date a petition for
348 termination of parental rights is filed also bars him from
349 filing a paternity claim under chapter 742.

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

353 1. The mother identifies him to the adoption entity as a
354 potential biological father by the date she executes a consent
355 for adoption; and

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

360 (b) If an unmarried biological father falls within the
361 exception provided by paragraph (a), the petitioner shall also



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362 submit to the Office of Vital Statistics a copy of the notice of
363 intended adoption plan and proof of service of the notice on the
364 potential biological father.

365 (c) An unmarried biological father who falls within the
366 exception provided by paragraph (a) may not file a claim of
367 paternity with the registry or a paternity claim under chapter
368 742 after the 30-day mandatory response date to the notice of
369 intended adoption plan has expired. The Office of Vital
370 Statistics may not record a claim of paternity 30 days after
371 service of the notice of intended adoption plan.

372 (2) By filing a claim of paternity form with the Office of
373 Vital Statistics, the registrant expressly consents to submit to
374 and pay for DNA testing upon the request of any party, the
375 registrant, or the adoption entity with respect to the child
376 referenced in the claim of paternity.

377 (4) Upon initial registration, or at any time thereafter,
378 the registrant may designate a physical ~~an~~ address other than
379 his residential address for sending any communication regarding
380 his registration. Similarly, upon initial registration, or at
381 any time thereafter, the registrant may designate, in writing,
382 an agent or representative to receive any communication on his
383 behalf and receive service of process. The agent or
384 representative must file an acceptance of the designation, in
385 writing, in order to receive notice or service of process. The
386 failure of the designated representative or agent of the
387 registrant to deliver or otherwise notify the registrant of
388 receipt of correspondence from the Florida Putative Father
389 Registry is at the registrant's own risk and may ~~shall~~ not serve
390 as a valid defense based upon lack of notice.



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

397 Section 12. Paragraph (b) of subsection (1), subsections
398 (2), (3), and (4), and paragraph (a) of subsection (8) of
399 section 63.062, Florida Statutes, are amended to read:

400 63.062 Persons required to consent to adoption; affidavit
401 of nonpaternity; waiver of venue.-

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

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

408 1. The minor was conceived or born while the father was
409 married to the mother;

410 2. The minor is his child by adoption;

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

414 4. He has filed an affidavit of paternity pursuant to s.
415 382.013(2)(c) or he is listed on the child's birth certificate
416 before ~~by~~ the date a petition ~~is filed~~ for termination of
417 parental rights is filed; or

418 5. In the case of an unmarried biological father, he has
419 acknowledged in writing, signed in the presence of a competent



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420 witness, that he is the father of the minor, has filed such
421 acknowledgment with the Office of Vital Statistics of the
422 Department of Health within the required timeframes, and has
423 complied with the requirements of subsection (2).
424

425 The status of the father shall be determined at the time of the
426 filing of the petition to terminate parental rights and may not
427 be modified, except as otherwise provided in s. 63.0423(9) (a),
428 for purposes of his obligations and rights under this chapter by
429 acts occurring after the filing of the petition to terminate
430 parental rights.

431 (2) In accordance with subsection (1), the consent of an
432 unmarried biological father shall be necessary only if the
433 unmarried biological father has complied with the requirements
434 of this subsection.

435 (a)1. With regard to a child who is placed with adoptive
436 parents more than 6 months after the child's birth, an unmarried
437 biological father must have developed a substantial relationship
438 with the child, taken some measure of responsibility for the
439 child and the child's future, and demonstrated a full commitment
440 to the responsibilities of parenthood by providing reasonable
441 and regular financial support to the child in accordance with
442 the unmarried biological father's ability, if not prevented from
443 doing so by the person or authorized adoption entity ~~agency~~
444 having lawful custody of the child, and either:

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



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449 b. Maintained regular communication with the child or with
450 the person or agency having the care or custody of the child,
451 when physically or financially unable to visit the child or when
452 not prevented from doing so by the birth mother or person or
453 authorized agency having lawful custody of the child.

454 ~~2. The mere fact that an unmarried biological father~~
455 ~~expresses a desire to fulfill his responsibilities towards his~~
456 ~~child which is unsupported by acts evidencing this intent does~~
457 ~~not preclude a finding by the court that the unmarried~~
458 ~~biological father failed to comply with the requirements of this~~
459 ~~subsection.~~

460 ~~2.3.~~ An unmarried biological father who openly lived with
461 the child for at least 6 months within the 1-year period
462 following the birth of the child and immediately preceding
463 placement of the child with adoptive parents and who openly held
464 himself out to be the father of the child during that period
465 shall be deemed to have developed a substantial relationship
466 with the child and to have otherwise met the requirements of
467 this paragraph.

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

474 1. Filed a notarized claim of paternity form with the
475 Florida Putative Father Registry within the Office of Vital
476 Statistics of the Department of Health, which form shall be
477 maintained in the confidential registry established for that



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478 purpose and shall be considered filed when the notice is entered
479 in the registry of notices from unmarried biological fathers.

480 2. Upon service of a notice of an intended adoption plan or
481 a petition for termination of parental rights pending adoption,
482 executed and filed an affidavit in that proceeding stating that
483 he is personally fully able and willing to take responsibility
484 for the child, setting forth his plans for care of the child,
485 and agreeing to a court order of child support and a
486 contribution to the payment of living and medical expenses
487 incurred for the mother's pregnancy and the child's birth in
488 accordance with his ability to pay.

489 3. If he had knowledge of the pregnancy, paid a fair and
490 reasonable amount of the living and medical expenses incurred in
491 connection with the mother's pregnancy and the child's birth, in
492 accordance with his financial ability and when not prevented
493 from doing so by the birth mother or person or authorized agency
494 having lawful custody of the child. The responsibility of the
495 unmarried biological father to provide financial assistance to
496 the birth mother during her pregnancy and to the child after
497 birth is not abated because support is being provided to the
498 birth mother or child by the adoption entity, a prospective
499 adoptive parent, or a third party, nor does it serve as a basis
500 to excuse the birth father's failure to provide support.

501 (c) The mere fact that a father expresses a desire to
502 fulfill his responsibilities toward his child which is
503 unsupported by acts evidencing this intent does not meet the
504 requirements of this section.

505 (d)-(e) The petitioner shall file with the court a
506 certificate from the Office of Vital Statistics stating that a



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507 diligent search has been made of the Florida Putative Father
508 Registry of notices from unmarried biological fathers described
509 in subparagraph (b)1. and that no filing has been found
510 pertaining to the father of the child in question or, if a
511 filing is found, stating the name of the putative father and the
512 time and date of filing. That certificate shall be filed with
513 the court prior to the entry of a final judgment of termination
514 of parental rights.

515 (e) ~~(d)~~ An unmarried biological father who does not comply
516 with each of the conditions provided in this subsection is
517 deemed to have waived and surrendered any rights in relation to
518 the child, including the right to notice of any judicial
519 proceeding in connection with the adoption of the child, and his
520 consent to the adoption of the child is not required.

521 (3) Pursuant to chapter 48, an adoption entity shall serve
522 a notice of intended adoption plan upon any known and locatable
523 unmarried biological father who is identified to the adoption
524 entity by the mother by the date she signs her consent for
525 adoption if the child is 6 months of age or younger at the time
526 the consent is executed ~~or who is identified by a diligent~~
527 ~~search of the Florida Putative Father Registry, or upon an~~
528 ~~entity whose consent is required.~~ Service of the notice of
529 intended adoption plan is not required ~~mandatory~~ when the
530 unmarried biological father signs a consent for adoption or an
531 affidavit of nonpaternity or when the child is more than 6
532 months of age at the time of the execution of the consent by the
533 mother. The notice may be served at any time before the child's
534 birth or before placing the child in the adoptive home. The
535 recipient of the notice may waive service of process by



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536 executing a waiver and acknowledging receipt of the plan. The
537 notice of intended adoption plan must specifically state that if
538 the unmarried biological father desires to contest the adoption
539 plan he must, within 30 days after service, file with the court
540 a verified response that contains a pledge of commitment to the
541 child in substantial compliance with subparagraph (2)(b)2. and a
542 claim of paternity form with the Office of Vital Statistics, and
543 must provide the adoption entity with a copy of the verified
544 response filed with the court and the claim of paternity form
545 filed with the Office of Vital Statistics. The notice must also
546 include instructions for submitting a claim of paternity form to
547 the Office of Vital Statistics and the address to which the
548 claim must be sent. If the party served with the notice of
549 intended adoption plan is an entity whose consent is required,
550 the notice must specifically state that the entity must file,
551 within 30 days after service, a verified response setting forth
552 a legal basis for contesting the intended adoption plan,
553 specifically addressing the best interests ~~interest~~ of the
554 child.

555 (a) If the unmarried biological father or entity whose
556 consent is required fails to timely and properly file a verified
557 response with the court and, in the case of an unmarried
558 biological father, a claim of paternity form with the Office of
559 Vital Statistics, the court shall enter a default judgment
560 against the ~~any~~ unmarried biological father or entity and the
561 consent of that unmarried biological father or entity shall no
562 longer be required under this chapter and shall be deemed to
563 have waived any claim of rights to the child. To avoid an entry
564 of a default judgment, within 30 days after receipt of service



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565 of the notice of intended adoption plan:

566 1. The unmarried biological father must:

567 a. File a claim of paternity with the Florida Putative
568 Father Registry maintained by the Office of Vital Statistics;

569 b. File a verified response with the court which contains a
570 pledge of commitment to the child in substantial compliance with
571 subparagraph (2) (b)2.; and

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

573 2. The entity whose consent is required must file a
574 verified response setting forth a legal basis for contesting the
575 intended adoption plan, specifically addressing the best
576 interests ~~interest~~ of the child.

577 (b) If the mother identifies a potential unmarried
578 biological father within the timeframes required by the statute,
579 whose location is unknown, the adoption entity shall conduct a
580 diligent search pursuant to s. 63.088. If, upon completion of a
581 diligent search, the potential unmarried biological father's
582 location remains unknown and a search of the Florida Putative
583 Father Registry fails to reveal a match, the adoption entity
584 shall request in the petition for termination of parental rights
585 pending adoption that the court declare the diligent search to
586 be in compliance with s. 63.088, that the adoption entity has no
587 further obligation to provide notice to the potential unmarried
588 biological father, on or before the date of filing a petition to
589 terminate parental rights, and that the potential unmarried
590 biological father's consent to the adoption is not required.

591 (4) Any person whose consent is required under paragraph
592 (1) (b), or any other man, may execute an irrevocable affidavit
593 of nonpaternity in lieu of a consent under this section and by



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594 doing so waives notice to all court proceedings after the date
595 of execution. An affidavit of nonpaternity must be executed as
596 provided in s. 63.082. The affidavit of nonpaternity may be
597 executed prior to the birth of the child. The person executing
598 the affidavit must receive disclosure under s. 63.085 prior to
599 signing the affidavit. For purposes of this chapter, an
600 affidavit of nonpaternity is sufficient if it contains a
601 specific denial of parental obligations, and does not need to
602 deny the existence of a biological relationship.

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

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

607 Section 13. Subsection (2) of section 63.063, Florida
608 Statutes, is amended to read:

609 63.063 Responsibility of parents for actions; fraud or
610 misrepresentation; contesting termination of parental rights and
611 adoption.—

612 (2) Any person injured by a fraudulent representation or
613 action in connection with an adoption may pursue civil or
614 criminal penalties as provided by law. A fraudulent
615 representation is not a defense to compliance with the
616 requirements of this chapter and is not a basis for dismissing a
617 petition for termination of parental rights or a petition for
618 adoption, for vacating an adoption decree, or for granting
619 custody to the offended party. Custody and adoption
620 determinations must be based on the best interests ~~interest~~ of
621 the child in accordance with s. 61.13.

622 Section 14. Paragraph (d) of subsection (1), paragraphs (c)



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623 and (d) of subsection (3), paragraphs (a), (d), and (e) of
624 subsection (4), and subsections (6) and (7) of section 63.082,
625 Florida Statutes, are amended to read:

626 63.082 Execution of consent to adoption or affidavit of
627 nonpaternity; family social and medical history; revocation
628 ~~withdrawal~~ of consent.-

629 (1)

630 (d) The ~~notice and~~ consent provisions of this chapter as
631 they relate to the father birth of a child ~~or to legal fathers~~
632 do not apply in cases in which the child is conceived as a
633 result of a violation of the criminal laws of this or another
634 state or country, including, but not limited to, sexual battery,
635 unlawful sexual activity with certain minors under s. 794.05,
636 lewd acts perpetrated upon a minor, or incest. A criminal
637 conviction is not required for the court to find that the child
638 was conceived as a result of a violation of the criminal laws of
639 this state or another state or country.

640 (3)

641 (c) If any person who is required to consent is unavailable
642 because the person cannot be located, an ~~the petition to~~
643 ~~terminate parental rights pending adoption must be accompanied~~
644 ~~by the~~ affidavit of diligent search required under s. 63.088
645 shall be filed.

646 (d) If any person who is required to consent is unavailable
647 because the person is deceased, the petition to terminate
648 parental rights pending adoption must be accompanied by a
649 certified copy of the death certificate. In an adoption of a
650 stepchild or a relative, the certified copy of the death
651 certificate of the person whose consent is required may ~~must~~ be



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652 attached to the petition for adoption if a separate petition for
653 termination of parental rights is not being filed.

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

658 (d) The consent to adoption or the affidavit of
659 nonpaternity must be signed in the presence of two witnesses and
660 be acknowledged before a notary public who is not signing as one
661 of the witnesses. The notary public must legibly note on the
662 consent or the affidavit the date and time of execution. The
663 witnesses' names must be typed or printed underneath their
664 signatures. The witnesses' home or business addresses must be
665 included. The person who signs the consent or the affidavit has
666 the right to have at least one of the witnesses be an individual
667 who does not have an employment, professional, or personal
668 relationship with the adoption entity or the prospective
669 adoptive parents. The adoption entity must give reasonable
670 advance notice to the person signing the consent or affidavit of
671 the right to select a witness of his or her own choosing. The
672 person who signs the consent or affidavit must acknowledge in
673 writing on the consent or affidavit that such notice was given
674 and indicate the witness, if any, who was selected by the person
675 signing the consent or affidavit. The adoption entity must
676 include its name, address, and telephone number on the consent
677 to adoption or affidavit of nonpaternity.

678 (e) A consent to adoption being executed by the birth
679 parent must be in at least 12-point boldfaced type and shall
680 contain the following recitation of rights ~~in substantially the~~



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681 ~~following form:~~

682 CONSENT TO ADOPTION

683

684 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES
685 NOT HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP
686 WITH THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO
687 BE PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A
688 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE
689 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR
690 WITNESSES YOU SELECTED, IF ANY.

691

692 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY
693 OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE
694 SIGNING THIS CONSENT:

695

- 696 1. CONSULT WITH AN ATTORNEY;
- 697 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE
698 LEGALLY PROHIBITED;
- 699 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR
700 FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
- 701 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY PROHIBITED;
702 AND
- 703 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE
704 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

705

706 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS
707 TO YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE
708 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP
709 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED



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710 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL
711 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE
712 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT
713 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
714 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN
715 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT
716 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
717 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY
718 BE EXECUTED. ANY MAN MAY EXECUTE A CONSENT AT ANY TIME AFTER THE
719 BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT, IT IS
720 VALID, BINDING, AND IRREVOCABLE AND CANNOT BE INVALIDATED
721 ~~WITHDRAWN~~ UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
722 DURESS.

723
724 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR
725 DURESS AND YOU WISH TO INVALIDATE ~~REVOKE~~ THAT CONSENT, YOU MUST:

- 726
727 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT
728 YOU WISH TO WITHDRAW YOUR CONSENT; AND
729 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD OR
730 DURESS.

731
732 This statement of rights is not required for the adoption of a
733 relative, an adult, a stepchild, or a child older than 6 months
734 of age. A consent form for the adoption of a child older than 6
735 months of age at the time of the execution of consent must
736 contain a statement outlining the revocation rights provided in
737 paragraph (c).

738 (6) (a) If a parent executes a consent for placement of a



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739 minor with an adoption entity or qualified prospective adoptive
740 parents and the minor child is in the custody of the department,
741 but parental rights have not yet been terminated, the adoption
742 consent is valid, binding, and enforceable by the court.

743 (b) Upon execution of the consent of the parent, the
744 adoption entity shall be permitted to ~~may~~ intervene in the
745 dependency case as a party in interest and must provide the
746 court that acquired ~~having~~ jurisdiction over the minor, pursuant
747 to the shelter or dependency petition filed by the department, a
748 copy of the preliminary home study of the prospective adoptive
749 parents and any other evidence of the suitability of the
750 placement. The preliminary home study must be maintained with
751 strictest confidentiality within the dependency court file and
752 the department's file. A preliminary home study must be provided
753 to the court in all cases in which an adoption entity has
754 intervened pursuant to this section. Unless the court has
755 concerns regarding the qualifications of the home study
756 provider, or concerns that the home study may not be adequate to
757 determine the best interests of the child, the home study
758 provided by the adoption entity shall be deemed to be sufficient
759 and no additional home study needs to be performed by the
760 department.

761 (c) If an adoption entity files a motion to intervene in
762 the dependency case in accordance with this chapter, the
763 dependency court shall promptly grant a hearing to determine
764 whether the adoption entity has filed the required documents to
765 be permitted to intervene and whether a change of placement of
766 the child is appropriate. At the time the court orders
767 intervention, the adoption entity shall provide the prospective



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768 adoptive parents with a written list of all MAP class training
769 programs within a 50 mile radius of the residence of the
770 prospective adoptive parents.

771 (d)~~(e)~~ Upon a determination by the court that the
772 prospective adoptive parents are properly qualified to adopt the
773 minor child and that the adoption appears to be in the best
774 interests ~~interest~~ of the minor child, the court shall
775 immediately order the transfer of custody of the minor child to
776 the prospective adoptive parents, under the supervision of the
777 adoption entity. The adoption entity shall thereafter provide
778 monthly supervision reports to the department until finalization
779 of the adoption.

780 (e)~~(d)~~ In determining whether the best interests ~~interest~~
781 of the child are ~~is~~ served by transferring the custody of the
782 minor child to the prospective adoptive parent selected by the
783 parent, the court shall consider the rights of the parent to
784 determine an appropriate placement for the child, the permanency
785 offered, the child's bonding with any potential adoptive home
786 that the child has been residing in, and the importance of
787 maintaining sibling relationships, if possible.

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

791 (a) The person seeking to revoke ~~withdraw~~ consent must, in
792 accordance with paragraph (4)(c), notify the adoption entity in
793 writing by certified mail, return receipt requested, within 3
794 business days after execution of the consent. As used in this
795 subsection, the term "business day" means any day on which the
796 United States Postal Service accepts certified mail for



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797 delivery.

798 (b) Upon receiving timely written notice from a person
799 whose consent to adoption is required of that person's desire to
800 revoke ~~withdraw~~ consent, the adoption entity must contact the
801 prospective adoptive parent to arrange a time certain for the
802 adoption entity to regain physical custody of the minor, unless,
803 upon a motion for emergency hearing by the adoption entity, the
804 court determines in written findings that placement of the minor
805 with the person who had legal or physical custody of the child
806 immediately before the child was placed for adoption may
807 endanger the minor or that the person who desires to revoke
808 ~~withdraw~~ consent is not required to consent to the adoption, has
809 been determined to have abandoned the child, or is otherwise
810 subject to a determination that the person's consent is waived
811 under this chapter.

812 (c) If the court finds that the placement may endanger the
813 minor, the court shall enter an order continuing the placement
814 of the minor with the prospective adoptive parents pending
815 further proceedings if they desire continued placement. If the
816 prospective adoptive parents do not desire continued placement,
817 the order must include, but need not be limited to, a
818 determination of whether temporary placement in foster care,
819 with the person who had legal or physical custody of the child
820 immediately before placing the child for adoption, or with a
821 relative is in the best interests ~~interest~~ of the child and
822 whether an investigation by the department is recommended.

823 (d) If the person revoking ~~withdrawing~~ consent claims to be
824 the father of the minor but has not been established to be the
825 father by marriage, court order, or scientific testing, the



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826 court may order scientific paternity testing and reserve ruling
827 on removal of the minor until the results of such testing have
828 been filed with the court.

829 (e) The adoption entity must return the minor within 3
830 business days after timely and proper notification of the
831 revocation ~~withdrawal~~ of consent or after the court determines
832 that revocation ~~withdrawal~~ is timely and in accordance with the
833 requirements of this chapter ~~valid and binding~~ upon
834 consideration of an emergency motion, as filed pursuant to
835 paragraph (b), to the physical custody of the person revoking
836 ~~withdrawing~~ consent or the person directed by the court. If the
837 person seeking to revoke ~~withdraw~~ consent claims to be the
838 father of the minor but has not been established to be the
839 father by marriage, court order, or scientific testing, the
840 adoption entity may return the minor to the care and custody of
841 the mother, if she desires such placement and she is not
842 otherwise prohibited by law from having custody of the child.

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

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

851 (h) If the consent of one parent is set aside or revoked in
852 accordance with this chapter, any other consents executed by the
853 other parent or a third party whose consent is required for the
854 adoption of the child may not be used by the parent whose



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855 consent was revoked or set aside to terminate or diminish the
856 rights of the other parent or third party whose consent was
857 required for the adoption of the child.

858 Section 15. Subsection (1) and paragraph (a) of subsection
859 (2) of section 63.085, Florida Statutes, are amended, and
860 paragraph (c) is added to subsection (2) of that section, to
861 read:

862 63.085 Disclosure by adoption entity.—

863 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE
864 PARENTS.—Within 14 days after a person seeking to adopt a minor
865 or a person seeking to place a minor for adoption contacts an
866 adoption entity in person or provides the adoption entity with a
867 mailing address, the entity must provide a written disclosure
868 statement to that person if the entity agrees or continues to
869 work with the person. The adoption entity shall also provide the
870 written disclosure to the parent who did not initiate contact
871 with the adoption entity within 14 days after that parent is
872 identified and located. For purposes of providing the written
873 disclosure, a person is considered to be seeking to place a
874 minor for adoption if that person has sought information or
875 advice from the adoption entity regarding the option of adoptive
876 placement. The written disclosure statement must be in
877 substantially the following form:

878

879 ADOPTION DISCLOSURE

880 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO
881 ALL PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A
882 MINOR FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS
883 REGARDING ADOPTION UNDER FLORIDA LAW:



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

Name:

Address:

Telephone Number:

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

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

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

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



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

916 7. An unmarried biological father must act immediately in
917 order to protect his parental rights. Section 63.062, Florida
918 Statutes, prescribes that any father seeking to establish his
919 right to consent to the adoption of his child must file a claim
920 of paternity with the Florida Putative Father Registry
921 maintained by the Office of Vital Statistics of the Department
922 of Health by the date a petition to terminate parental rights is
923 filed with the court, or within 30 days after receiving service
924 of a Notice of Intended Adoption Plan. If he receives a Notice
925 of Intended Adoption Plan, he must file a claim of paternity
926 with the Florida Putative Father Registry, file a parenting plan
927 with the court, and provide financial support to the mother or
928 child within 30 days following service. An unmarried biological
929 father's failure to timely respond to a Notice of Intended
930 Adoption Plan constitutes an irrevocable legal waiver of any and
931 all rights that the father may have to the child. A claim of
932 paternity registration form for the Florida Putative Father
933 Registry may be obtained from any local office of the Department
934 of Health, Office of Vital Statistics, the Department of
935 Children and Families, the Internet websites for these agencies,
936 and the offices of the clerks of the Florida circuit courts. The
937 claim of paternity form must be submitted to the Office of Vital
938 Statistics, Attention: Adoption Unit, P.O. Box 210,
939 Jacksonville, FL 32231.

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



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

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

948 10. A parent 14 years of age or younger must have a parent,
949 legal guardian, or court-appointed guardian ad litem to assist
950 and advise the parent as to the adoption plan and to witness
951 consent.

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

954 12. The payment of living or medical expenses by the
955 prospective adoptive parents before the birth of the child does
956 not, in any way, obligate the parent to sign the consent for
957 adoption.

958 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

959 (a) At the time that an adoption entity is responsible for
960 selecting prospective adoptive parents for a born or unborn
961 child whose parents are seeking to place the child for adoption
962 or whose rights were terminated pursuant to chapter 39, the
963 adoption entity must provide the prospective adoptive parents
964 with information concerning the background of the child to the
965 extent such information is disclosed to the adoption entity by
966 the parents, legal custodian, or the department. This subsection
967 applies only if the adoption entity identifies the prospective
968 adoptive parents and supervises the ~~physical~~ placement of the
969 child in the prospective adoptive parents' home. If any
970 information cannot be disclosed because the records custodian



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971 failed or refused to produce the background information, the
972 adoption entity has a duty to provide the information if it
973 becomes available. An individual or entity contacted by an
974 adoption entity to obtain the background information must
975 release the requested information to the adoption entity without
976 the necessity of a subpoena or a court order. In all cases, the
977 prospective adoptive parents must receive all available
978 information by the date of the final hearing on the petition for
979 adoption. The information to be disclosed includes:

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

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

984 3. A complete set of the child's medical records
985 documenting all medical treatment and care since the child's
986 birth and before placement.

987 4. All mental health, psychological, and psychiatric
988 records, reports, and evaluations concerning the child before
989 placement.

990 5. The child's educational records, including all records
991 concerning any special education needs of the child before
992 placement.

993 6. Records documenting all incidents that required the
994 department to provide services to the child, including all
995 orders of adjudication of dependency or termination of parental
996 rights issued pursuant to chapter 39, any case plans drafted to
997 address the child's needs, all protective services
998 investigations identifying the child as a victim, and all
999 guardian ad litem reports filed with the court concerning the



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1000 child.

1001 7. Written information concerning the availability of
1002 adoption subsidies for the child, if applicable.

1003 (c) If the cost to the prospective adoptive parent or
1004 parents of obtaining the medical records described in paragraph
1005 (a) exceeds \$500, the prospective adoptive parent or parents may
1006 waive the receipt of the records by providing written
1007 notification of the waiver to the adoption entity and filing a
1008 copy of the written notification in the court file.

1009 Section 16. Subsection (6) of section 63.087, Florida
1010 Statutes, is amended to read:

1011 63.087 Proceeding to terminate parental rights pending
1012 adoption; general provisions.—

1013 (6) ANSWER AND APPEARANCE REQUIRED.—An answer to the
1014 petition or any pleading requiring an answer must be filed in
1015 accordance with the Florida Family Law Rules of Procedure.
1016 Failure to file a written response to the petition constitutes
1017 grounds upon which the court may terminate parental rights.
1018 Failure to personally appear at the hearing constitutes grounds
1019 upon which the court may terminate parental rights. Any person
1020 present at the hearing to terminate parental rights pending
1021 adoption whose consent to adoption is required under s. 63.062
1022 must:

1023 (a) Be advised by the court that he or she has a right to
1024 ask that the hearing be reset for a later date so that the
1025 person may consult with an attorney; and

1026 (b) Be given an opportunity to admit or deny the
1027 allegations in the petition.

1028 Section 17. Subsection (4) of section 63.088, Florida



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1029 Statutes, is amended to read:

1030 63.088 Proceeding to terminate parental rights pending
1031 adoption; notice and service; diligent search.—

1032 (4) REQUIRED INQUIRY.—In proceedings initiated under s.
1033 63.087, the court shall conduct an inquiry of the person who is
1034 placing the minor for adoption and of any relative or person
1035 having legal custody of the minor who is present at the hearing
1036 and likely to have the following information regarding the
1037 identity of:

1038 (a) Any man to whom the mother of the minor was married at
1039 any time when conception of the minor may have occurred or at
1040 the time of the birth of the minor;

1041 (b) Any man who has filed an affidavit of paternity
1042 pursuant to s. 382.013(2)(c) before the date that a petition for
1043 termination of parental rights is filed with the court;

1044 (c) Any man who has adopted the minor;

1045 (d) Any man who has been adjudicated by a court as the
1046 father of the minor child before the date a petition for
1047 termination of parental rights is filed with the court; and

1048 (e) Any man whom the mother identified to the adoption
1049 entity as a potential biological father before the date she
1050 signed the consent for adoption.

1051
1052 The information sought under this subsection may be provided to
1053 the court in the form of a sworn affidavit by a person having
1054 personal knowledge of the facts, addressing each inquiry
1055 enumerated in this subsection, except that, if the inquiry
1056 identifies a father under paragraph (a), paragraph (b), ~~or~~
1057 paragraph (c), or paragraph (d), the inquiry may not continue



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1058 further. The inquiry required under this subsection may be
1059 conducted before the birth of the minor.

1060 Section 18. Paragraph (d) of subsection (3), paragraph (b)
1061 of subsection (4), and subsections (5) and (7) of section
1062 63.089, Florida Statutes, are amended to read:

1063 63.089 Proceeding to terminate parental rights pending
1064 adoption; hearing; grounds; dismissal of petition; judgment.—

1065 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
1066 ADOPTION.—The court may enter a judgment terminating parental
1067 rights pending adoption if the court determines by clear and
1068 convincing evidence, supported by written findings of fact, that
1069 each person whose consent to adoption is required under s.
1070 63.062:

1071 (d) Has been properly served notice of the proceeding in
1072 accordance with the requirements of this chapter and has failed
1073 to file a written answer or personally appear at the evidentiary
1074 hearing resulting in the judgment terminating parental rights
1075 pending adoption;

1076 (4) FINDING OF ABANDONMENT.—A finding of abandonment
1077 resulting in a termination of parental rights must be based upon
1078 clear and convincing evidence that a parent or person having
1079 legal custody has abandoned the child in accordance with the
1080 definition contained in s. 63.032. A finding of abandonment may
1081 also be based upon emotional abuse or a refusal to provide
1082 reasonable financial support, when able, to a birth mother
1083 during her pregnancy.

1084 (b) The child has been abandoned when the parent of a child
1085 is incarcerated on or after October 1, 2001, in a federal,
1086 state, or county correctional institution and:



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1087 1. The period of time for which the parent has been or is
1088 expected to be incarcerated will constitute a significant
1089 portion of the child's minority. In determining whether the
1090 period of time is significant, the court shall consider the
1091 child's age and the child's need for a permanent and stable
1092 home. The period of time begins on the date that the parent
1093 enters into incarceration;

1094 2. The incarcerated parent has been determined by a court
1095 of competent jurisdiction to be a violent career criminal as
1096 defined in s. 775.084, a habitual violent felony offender as
1097 defined in s. 775.084, convicted of child abuse as defined in s.
1098 827.03, or a sexual predator as defined in s. 775.21; has been
1099 convicted of first degree or second degree murder in violation
1100 of s. 782.04 or a sexual battery that constitutes a capital,
1101 life, or first degree felony violation of s. 794.011; or has
1102 been convicted of a substantially similar offense in another
1103 jurisdiction. As used in this section, the term "substantially
1104 similar offense" means any offense that is substantially similar
1105 in elements and penalties to one of those listed in this
1106 subparagraph, and that is in violation of a law of any other
1107 jurisdiction, whether that of another state, the District of
1108 Columbia, the United States or any possession or territory
1109 thereof, or any foreign jurisdiction; or

1110 3. The court determines by clear and convincing evidence
1111 that continuing the parental relationship with the incarcerated
1112 parent would be harmful to the child and, for this reason,
1113 termination of the parental rights of the incarcerated parent is
1114 in the best interests ~~interest~~ of the child.

1115 (5) DISMISSAL OF PETITION.—If the court does not find by



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1116 clear and convincing evidence that parental rights of a parent
1117 should be terminated pending adoption, the court must dismiss
1118 the petition and that parent's parental rights that were the
1119 subject of such petition shall remain in full force under the
1120 law. The order must include written findings in support of the
1121 dismissal, including findings as to the criteria in subsection
1122 (4) if rejecting a claim of abandonment.

1123 (a) Parental rights may not be terminated based upon a
1124 consent that the court finds has been timely ~~revoked~~ ~~withdrawn~~
1125 under s. 63.082 or a consent to adoption or affidavit of
1126 nonpaternity that the court finds was obtained by fraud or
1127 duress.

1128 (b) The court must enter an order based upon written
1129 findings providing for the placement of the minor, but the court
1130 may not proceed to determine custody between competing eligible
1131 parties. The placement of the child shall revert to the parent
1132 or guardian who had physical custody of the child at the time of
1133 the placement for adoption unless the court determines upon
1134 clear and convincing evidence that this placement is not in the
1135 best interests of the child or is not an available option for
1136 the child. The court may not change the placement of a child who
1137 has established a bonded relationship with the current caregiver
1138 without providing for a reasonable transition plan consistent
1139 with the best interests of the child. The court may direct the
1140 parties to participate in a reunification or unification plan
1141 with a qualified professional to assist the child in the
1142 transition. The court may order scientific testing to determine
1143 the paternity of the minor only if the court has determined that
1144 the consent of the alleged father would be required, unless all



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1145 parties agree that such testing is in the best interests of the
1146 child. The court may not order scientific testing to determine
1147 paternity of an unmarried biological father if the child has a
1148 father as described in s. 63.088(4)(a)-(d) whose rights have not
1149 been previously terminated at any time during which the court
1150 has jurisdiction over the minor. Further proceedings, if any,
1151 regarding the minor must be brought in a separate custody action
1152 under chapter 61, a dependency action under chapter 39, or a
1153 paternity action under chapter 742.

1154 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

1155 (a) A motion for relief from a judgment terminating
1156 parental rights must be filed with the court originally entering
1157 the judgment. The motion must be filed within a reasonable time,
1158 but not later than 1 year after the entry of the judgment. An
1159 unmarried biological father does not have standing to seek
1160 relief from a judgment terminating parental rights if the mother
1161 did not identify him to the adoption entity before the date she
1162 signed a consent for adoption or if he was not located because
1163 the mother failed or refused to provide sufficient information
1164 to locate him.

1165 (b) No later than 30 days after the filing of a motion
1166 under this subsection, the court must conduct a preliminary
1167 hearing to determine what contact, if any, shall be permitted
1168 between a parent and the child pending resolution of the motion.
1169 Such contact shall be considered only if it is requested by a
1170 parent who has appeared at the hearing and may not be awarded
1171 unless the parent previously established a bonded relationship
1172 with the child and the parent has pled a legitimate legal basis
1173 and established a prima facie case for setting aside the



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1174 judgment terminating parental rights. If the court orders
1175 contact between a parent and child, the order must be issued in
1176 writing as expeditiously as possible and must state with
1177 specificity any provisions regarding contact with persons other
1178 than those with whom the child resides.

1179 (c) At the preliminary hearing, the court, upon the motion
1180 of any party or upon its own motion, may order scientific
1181 testing to determine the paternity of the minor if the person
1182 seeking to set aside the judgment is alleging to be the child's
1183 father and that fact has not previously been determined by
1184 legitimacy or scientific testing. The court may order visitation
1185 with a person for whom scientific testing for paternity has been
1186 ordered and who has previously established a bonded relationship
1187 with the child.

1188 (d) Unless otherwise agreed between the parties or for good
1189 cause shown, the court shall conduct a final hearing on the
1190 motion for relief from judgment within 45 days after the filing
1191 and enter its written order as expeditiously as possible
1192 thereafter.

1193 (e) If the court grants relief from the judgment
1194 terminating parental rights and no new pleading is filed to
1195 terminate parental rights, the placement of the child shall
1196 revert to the parent or guardian who had physical custody of the
1197 child at the time of the original placement for adoption unless
1198 the court determines upon clear and convincing evidence that
1199 this placement is not in the best interests of the child or is
1200 not an available option for the child. The court may not change
1201 the placement of a child who has established a bonded
1202 relationship with the current caregiver without providing for a



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1203 reasonable transition plan consistent with the best interests of
1204 the child. The court may direct the parties to participate in a
1205 reunification or unification plan with a qualified professional
1206 to assist the child in the transition. The court may not direct
1207 the placement of a child with a person other than the adoptive
1208 parents without first obtaining a favorable home study of that
1209 person and any other persons residing in the proposed home and
1210 shall take whatever additional steps are necessary and
1211 appropriate for the physical and emotional protection of the
1212 child.

1213 Section 19. Subsection (3) of section 63.092, Florida
1214 Statutes, is amended to read:

1215 63.092 Report to the court of intended placement by an
1216 adoption entity; at-risk placement; preliminary study.—

1217 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the
1218 intended adoptive home, a preliminary home study must be
1219 performed by a licensed child-placing agency, a child-caring
1220 agency registered under s. 409.176, a licensed professional, or
1221 agency described in s. 61.20(2), unless the adoptee is an adult
1222 or the petitioner is a stepparent or a relative. If the adoptee
1223 is an adult or the petitioner is a stepparent or a relative, a
1224 preliminary home study may be required by the court for good
1225 cause shown. The department is required to perform the
1226 preliminary home study only if there is no licensed child-
1227 placing agency, child-caring agency registered under s. 409.176,
1228 licensed professional, or agency described in s. 61.20(2), in
1229 the county where the prospective adoptive parents reside. The
1230 preliminary home study must be made to determine the suitability
1231 of the intended adoptive parents and may be completed prior to



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1232 identification of a prospective adoptive minor. A favorable
1233 preliminary home study is valid for 1 year after the date of its
1234 completion. Upon its completion, a signed copy of the home study
1235 must be provided to the intended adoptive parents who were the
1236 subject of the home study. A minor may not be placed in an
1237 intended adoptive home before a favorable preliminary home study
1238 is completed unless the adoptive home is also a licensed foster
1239 home under s. 409.175. The preliminary home study must include,
1240 at a minimum:

- 1241 (a) An interview with the intended adoptive parents;
- 1242 (b) Records checks of the department's central abuse
1243 registry and criminal records correspondence checks under s.
1244 39.0138 through the Department of Law Enforcement on the
1245 intended adoptive parents;
- 1246 (c) An assessment of the physical environment of the home;
- 1247 (d) A determination of the financial security of the
1248 intended adoptive parents;
- 1249 (e) Documentation of counseling and education of the
1250 intended adoptive parents on adoptive parenting;
- 1251 (f) Documentation that information on adoption and the
1252 adoption process has been provided to the intended adoptive
1253 parents;
- 1254 (g) Documentation that information on support services
1255 available in the community has been provided to the intended
1256 adoptive parents; and
- 1257 (h) A copy of each signed acknowledgment of receipt of
1258 disclosure required by s. 63.085.

1259
1260 If the preliminary home study is favorable, a minor may be



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1261 placed in the home pending entry of the judgment of adoption. A
1262 minor may not be placed in the home if the preliminary home
1263 study is unfavorable. If the preliminary home study is
1264 unfavorable, the adoption entity may, within 20 days after
1265 receipt of a copy of the written recommendation, petition the
1266 court to determine the suitability of the intended adoptive
1267 home. A determination as to suitability under this subsection
1268 does not act as a presumption of suitability at the final
1269 hearing. In determining the suitability of the intended adoptive
1270 home, the court must consider the totality of the circumstances
1271 in the home. A ~~No~~ minor may not be placed in a home in which
1272 there resides any person determined by the court to be a sexual
1273 predator as defined in s. 775.21 or to have been convicted of an
1274 offense listed in s. 63.089(4)(b)2.

1275 Section 20. Subsection (7) is added to section 63.097,
1276 Florida Statutes, to read:

1277 63.097 Fees.—

1278 (7) In determining reasonable attorney fees, the court
1279 shall use the following criteria:

1280 (a) The time and labor required, the novelty and difficulty
1281 of the question involved, and the skill requisite to perform the
1282 legal service properly.

1283 (b) The likelihood, if apparent to the client, that the
1284 acceptance of the particular employment will preclude other
1285 employment by the attorney.

1286 (c) The fee customarily charged in the locality for similar
1287 legal services.

1288 (d) The amount involved in the subject matter of the
1289 representation, the responsibility involved in the



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1290 representation, and the results obtained.

1291 (e) The time limitations imposed by the client or by the
1292 circumstances and, as between attorney and client, any
1293 additional or special time demands or requests of the attorney
1294 by the client.

1295 (f) The nature and length of the professional relationship
1296 with the client.

1297 (g) The experience, reputation, diligence, and ability of
1298 the attorney or attorneys performing the service and the skill,
1299 expertise, or efficiency of effort reflected in the actual
1300 providing of such services.

1301 (h) Whether the fee is fixed or contingent.

1302 Section 21. Section 63.152, Florida Statutes, is amended to
1303 read:

1304 63.152 Application for new birth record.—Within 30 days
1305 after entry of a judgment of adoption, the clerk of the court or
1306 the adoption entity shall transmit a certified statement of the
1307 entry to the state registrar of vital statistics on a form
1308 provided by the registrar. A new birth record containing the
1309 necessary information supplied by the certificate shall be
1310 issued by the registrar on application of the adopting parents
1311 or the adopted person.

1312 Section 22. Subsection (7) of section 63.162, Florida
1313 Statutes, is amended to read:

1314 63.162 Hearings and records in adoption proceedings;
1315 confidential nature.—

1316 (7) The court may, upon petition of an adult adoptee or
1317 birth parent, for good cause shown, appoint an intermediary or
1318 adoption entity ~~a licensed child-placing agency~~ to contact a



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1319 birth parent or adult adoptee, as applicable, who has not
1320 registered with the adoption registry pursuant to s. 63.165 and
1321 advise both ~~them~~ of the availability of the intermediary or
1322 adoption entity and that the birth parent or adult adoptee, as
1323 applicable, wishes to establish contact same.

1324 Section 23. Paragraph (c) of subsection (2) of section
1325 63.167, Florida Statutes, is amended to read:

1326 63.167 State adoption information center.—

1327 (2) The functions of the state adoption information center
1328 shall include:

1329 (c) Operating a toll-free telephone number to provide
1330 information and referral services. The state adoption
1331 information center shall provide contact information for all
1332 adoption entities in the caller's county or, if no adoption
1333 entities are located in the caller's county, the number of the
1334 nearest adoption entity when contacted for a referral to make an
1335 adoption plan and shall rotate the order in which the names of
1336 adoption entities are provided to callers.

1337 Section 24. Paragraph (g) of subsection (1) and subsections
1338 (2) and (8) of section 63.212, Florida Statutes, are amended to
1339 read:

1340 63.212 Prohibited acts; penalties for violation.—

1341 (1) It is unlawful for any person:

1342 (g) Except an adoption entity, to advertise or offer to the
1343 public, in any way, by any medium whatever that a minor is
1344 available for adoption or that a minor is sought for adoption;
1345 and, further, it is unlawful for any person to publish or
1346 broadcast any such advertisement or assist an unlicensed person
1347 or entity in publishing or broadcasting any such advertisement



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1348 without including a Florida license number of the agency or
1349 attorney placing the advertisement.

1350 1. Only a person who is an attorney licensed to practice
1351 law in this state or an adoption entity licensed under the laws
1352 of this state may place a paid advertisement or paid listing of
1353 the person's telephone number, on the person's own behalf, in a
1354 telephone directory that:

1355 a. A child is offered or wanted for adoption; or

1356 b. The person is able to place, locate, or receive a child
1357 for adoption.

1358 2. A person who publishes a telephone directory that is
1359 distributed in this state:

1360 a. Shall include, at the beginning of any classified
1361 heading for adoption and adoption services, a statement that
1362 informs directory users that only attorneys licensed to practice
1363 law in this state and licensed adoption entities may legally
1364 provide adoption services under state law.

1365 b. May publish an advertisement described in subparagraph
1366 1. in the telephone directory only if the advertisement contains
1367 the following:

1368 (I) For an attorney licensed to practice law in this state,
1369 the attorney's Florida Bar number.

1370 (II) For an adoption entity licensed under the laws of this
1371 state, the number on the adoption entity license.

1372 (2) Any woman who is a birth mother, or a woman who holds
1373 herself out to be a birth mother, who is interested in making an
1374 adoption plan and who knowingly or intentionally benefits from
1375 the payment of adoption-related expenses in connection with that
1376 adoption plan commits adoption deception if:



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1377 (a) The person knows or should have known that the woman is
1378 not pregnant at the time the sums were requested or received;

1379 (b) The woman accepts living expenses assistance from a
1380 prospective adoptive parent or adoption entity without
1381 disclosing that she is receiving living expenses assistance from
1382 another prospective adoptive parent or adoption entity at the
1383 same time in an effort to adopt the same child; or

1384 (c) The woman knowingly makes false representations to
1385 induce the payment of living expenses and does not intend to
1386 make an adoptive placement. It is unlawful for:

1387 ~~(a) Any person or adoption entity under this chapter to:~~

1388 ~~1. Knowingly provide false information; or~~

1389 ~~2. Knowingly withhold material information.~~

1390 ~~(b) A parent, with the intent to defraud, to accept~~
1391 ~~benefits related to the same pregnancy from more than one~~
1392 ~~adoption entity without disclosing that fact to each entity.~~

1393

1394 Any person who willfully commits adoption deception ~~violates any~~
1395 ~~provision of this subsection~~ commits a misdemeanor of the second
1396 degree, punishable as provided in s. 775.082 or s. 775.083, if
1397 the sums received by the birth mother or woman holding herself
1398 out to be a birth mother do not exceed \$300, and a felony of the
1399 third degree, punishable as provided in s. 775.082, s. 775.083,
1400 or s. 775.084, if the sums received by the birth mother or woman
1401 holding herself out to be a birth mother exceed \$300. In
1402 addition, the person is liable for damages caused by such acts
1403 or omissions, including reasonable attorney ~~attorney's~~ fees and
1404 costs incurred by the adoption entity or the prospective
1405 adoptive parent. Damages may be awarded through restitution in



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1406 any related criminal prosecution or by filing a separate civil
1407 action.

1408 (8) Unless otherwise indicated, a person who willfully and
1409 with criminal intent violates any provision of this section,
1410 excluding paragraph (1)(g), commits a felony of the third
1411 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1412 775.084. A person who willfully and with criminal intent
1413 violates paragraph (1)(g) commits a misdemeanor of the second
1414 degree, punishable as provided in s. 775.083; and each day of
1415 continuing violation shall be considered a separate offense. In
1416 addition, any person who knowingly publishes or assists with the
1417 publication of any advertisement or other publication that
1418 violates the requirements of paragraph (1)(g) commits a
1419 misdemeanor of the second degree, punishable as provided in s.
1420 775.083, and may be required to pay a fine of up to \$150 per day
1421 for each day of continuing violation.

1422 Section 25. Paragraph (b) of subsection (1), paragraphs (a)
1423 and (e) of subsection (2), and paragraphs (b), (h), and (i) of
1424 subsection (6) of section 63.213, Florida Statutes, are amended
1425 to read:

1426 63.213 Preplanned adoption agreement.—

1427 (1) Individuals may enter into a preplanned adoption
1428 arrangement as specified in this section, but such arrangement
1429 may not in any way:

1430 (b) Constitute consent of a mother to place her biological
1431 child for adoption until 48 hours after the following birth of
1432 the child and unless the court making the custody determination
1433 or approving the adoption determines that the mother was aware
1434 of her right to rescind within the 48-hour period after the



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1435 ~~following~~ birth of the child but chose not to rescind such
1436 consent. The volunteer mother's right to rescind her consent in
1437 a preplanned adoption applies only when the child is genetically
1438 related to her.

1439 (2) A preplanned adoption agreement must include, but need
1440 not be limited to, the following terms:

1441 (a) That the volunteer mother agrees to become pregnant by
1442 the fertility technique specified in the agreement, to bear the
1443 child, and to terminate any parental rights and responsibilities
1444 to the child she might have through a written consent executed
1445 at the same time as the preplanned adoption agreement, subject
1446 to a right of rescission by the volunteer mother any time within
1447 48 hours after the birth of the child, if the volunteer mother
1448 is genetically related to the child.

1449 (e) That the intended father and intended mother
1450 acknowledge that they may not receive custody or the parental
1451 rights under the agreement if the volunteer mother terminates
1452 the agreement or if the volunteer mother rescinds her consent to
1453 place her child for adoption within 48 hours after the birth of
1454 the child, if the volunteer mother is genetically related to the
1455 child.

1456 (6) As used in this section, the term:

1457 (b) "Child" means the child or children conceived by means
1458 of a fertility technique ~~an insemination~~ that is part of a
1459 preplanned adoption arrangement.

1460 (h) "Preplanned adoption arrangement" means the arrangement
1461 through which the parties enter into an agreement for the
1462 volunteer mother to bear the child, for payment by the intended
1463 father and intended mother of the expenses allowed by this



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1464 section, for the intended father and intended mother to assert
1465 full parental rights and responsibilities to the child if
1466 consent to adoption is not rescinded after birth by a the
1467 volunteer mother who is genetically related to the child, and
1468 for the volunteer mother to terminate, subject to any ~~a~~ right of
1469 rescission, all her parental rights and responsibilities to the
1470 child in favor of the intended father and intended mother.

1471 (i) "Volunteer mother" means a female at least 18 years of
1472 age who voluntarily agrees, subject to a right of rescission if
1473 it is her biological child, that if she should become pregnant
1474 pursuant to a preplanned adoption arrangement, she will
1475 terminate her parental rights and responsibilities to the child
1476 in favor of the intended father and intended mother.

1477 Section 26. Section 63.222, Florida Statutes, is amended to
1478 read:

1479 63.222 Effect on prior adoption proceedings.—Any adoption
1480 made before July 1, 2012, ~~is the effective date of this act~~
1481 ~~shall be~~ valid, and any proceedings pending on that the
1482 ~~effective date and any subsequent amendments thereto of this act~~
1483 are not affected unless the amendment is designated as a
1484 remedial provision ~~thereby~~.

1485 Section 27. Section 63.2325, Florida Statutes, is amended
1486 to read:

1487 63.2325 Conditions for invalidation ~~revocation~~ of a consent
1488 to adoption or affidavit of nonpaternity.—Notwithstanding the
1489 requirements of this chapter, a failure to meet any of those
1490 requirements does not constitute grounds for invalidation
1491 ~~revocation~~ of a consent to adoption or revocation ~~withdrawal~~ of
1492 an affidavit of nonpaternity unless the extent and circumstances



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1493 of such a failure result in a material failure of fundamental
1494 fairness in the administration of due process, or the failure
1495 constitutes or contributes to fraud or duress in obtaining a
1496 consent to adoption or affidavit of nonpaternity.

1497 Section 28. Section 753.06, Florida Statutes, is created to
1498 read:

1499 753.06 Standards; funding limitations.-

1500 (1) The standards provided in the final report submitted to
1501 the Legislature pursuant to s. 753.03(4) shall be the state's
1502 standards for supervised visitation and exchange monitoring.

1503 (2) Each supervised visitation program must annually affirm
1504 in a written agreement with the court that it abides by the
1505 standards. If the program has a contract with a child-placing
1506 agency, that contract must include an affirmation that the
1507 program complies with the standards. A copy of the agreement or
1508 contract must be made available to any party upon request.

1509 (3) On or after January 1, 2013, only a supervised
1510 visitation program that has affirmed in a written agreement with
1511 the court that it abides by and is in compliance with the state
1512 standards may receive state funding for supervised visitation or
1513 exchange monitoring services.

1514 Section 29. Section 753.07, Florida Statutes, is created to
1515 read:

1516 753.07 Referrals.-

1517 (1) Courts and referring child-placing agencies must adhere
1518 to the following priorities when determining where to refer
1519 cases for supervised visitation or exchange monitoring:

1520 (a) For cases that are filed under chapter 61 or chapter
1521 741 in which the courts are the primary source of referrals, the



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1522 court shall direct referrals as follows:

1523 1. The order must refer the parties to a supervised
1524 visitation program that has a written agreement with the court
1525 as provided in s. 753.06(2) if such a program exists in the
1526 community.

1527 2. If a program does not exist, or if the existing program
1528 is not able to accept the referral for any reason, the court may
1529 refer the case to a local licensed mental health professional.
1530 Such professional is not required to abide by the state
1531 standards established in s. 753.06; however, the professional
1532 must affirm to the court in writing that he or she has completed
1533 the clearinghouse's free, online supervised visitation training
1534 program and has read and understands the state standards.

1535 (b) In cases governed by chapter 39, the referring child-
1536 placing agency must adhere to the following:

1537 1. The agency that has primary responsibility for the case
1538 must ensure that each family is assessed for problems that could
1539 present safety risks during parent-child contact. If risks are
1540 found, agency staff shall consider referring the parties to a
1541 local supervised visitation program that has affirmed in writing
1542 that it adheres to the state standards if such a program exists
1543 in the community.

1544 2. If agency staff determines that supervised visitation is
1545 unnecessary, such program does not exist, or the existing
1546 program is unable to accept the referral for any reason, the
1547 child protective investigator or case manager who has primary
1548 responsibility for the case may:

1549 a. Supervise the parent-child contact himself or herself.
1550 However, before a child protective investigator or case manager



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1551 may supervise visits, he or she must review or receive training
1552 on the online training manual for the state's supervised
1553 visitation programs and affirm in writing to his or her own
1554 agency that he or she has received training on, or has reviewed
1555 and understands, the state standards.

1556 b. Designate a foster parent or relative to supervise the
1557 parent-child visits in those cases that do not warrant the
1558 supervision of the child protective investigator or case
1559 manager. However, the designated foster parent or relative must
1560 first be apprised that the case manager conducted a safety
1561 assessment described in subparagraph 1., and must be provided
1562 access to free training material on the foster parent's or
1563 relative's role in supervised visitation. Such materials may be
1564 created by the clearinghouse using existing or new material and
1565 must be approved by the department. Such training may be
1566 included in any preservice foster parent training conducted by
1567 the agency.

1568 3. If a program does not exist, or if the existing program
1569 is unable to accept the referral and the child protective
1570 investigator or case manager is unable to supervise the parent-
1571 child contact or designate a foster parent or relative to
1572 supervise the visits as described in subparagraph 2., the agency
1573 that has primary responsibility for the case may refer the case
1574 to other qualified staff within that agency to supervise the
1575 contact. However, before such staff member may supervise any
1576 visits, he or she must review or receive training on the online
1577 training manual for supervised visitation programs and affirm in
1578 writing to his or her own agency that he or she has received
1579 training on, or has reviewed and understands, the training



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1580 manual and the state standards.

1581 4. The agency that has primary responsibility for the case
1582 may not refer the case to a subcontractor or other agency to
1583 perform the supervised visitation unless that subcontractor's or
1584 other agency's child protective investigators or case managers
1585 who supervise onsite or offsite visits have reviewed or received
1586 training on the clearinghouse's online training manual for
1587 supervised visitation programs and affirm to their own agency
1588 that they have received training on, or have reviewed and
1589 understand, the training manual and the state standards.

1590 (2) This section does not prohibit the court from allowing
1591 a litigant's relatives or friends to supervise visits if the
1592 court determines that such supervision is safe. However, such
1593 informal supervisors must be made aware of the free online
1594 clearinghouse materials that they may voluntarily choose to
1595 review. These materials must provide information that helps
1596 educate the informal supervisors about the inherent risks and
1597 complicated dynamics of supervised visitation.

1598 (3) Supervised visitation programs may alert the court in
1599 writing if there are problems with referred cases and the court
1600 may set a hearing to address these problems.

1601 Section 30. Section 753.08, Florida Statutes, is created to
1602 read:

1603 753.08 Security background checks; immunity.—

1604 (1) Because of the special trust or responsibility placed
1605 on volunteers and employees of supervised visitation programs,
1606 such program must conduct a security background investigation
1607 before hiring an employee or certifying a volunteer.

1608 (a) A security background investigation must include, but



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1609 need not be limited to, employment history checks, reference
1610 checks, local criminal history records checks through local law
1611 enforcement agencies, and statewide criminal history records
1612 checks through the Department of Law Enforcement.

1613 (b) Upon request, an employer shall furnish a copy of the
1614 personnel record for the employee or former employee who is the
1615 subject of a security background investigation. The information
1616 contained in the record may include, but need not be limited to,
1617 disciplinary matters and the reason the employee was terminated
1618 from employment, if applicable. An employer who releases a
1619 personnel record for purposes of a security background
1620 investigation is presumed to have acted in good faith and is not
1621 liable for information contained in the record without a showing
1622 that the employer maliciously falsified the record.

1623 (c) All employees hired or volunteers certified on or after
1624 October 1, 2012, must undergo a state and national criminal
1625 history record check. Supervised visitation programs shall
1626 contract with the department, the court administrator, or the
1627 clerk of court to conduct level 2 background screening under
1628 chapter 435. The cost of fingerprint processing may be borne by
1629 the program or the person subject to the background check. The
1630 department, court administrator, or clerk of court shall review
1631 the criminal history results to determine if an applicant meets
1632 the minimum requirements and is responsible for payment to the
1633 Department of Law Enforcement by invoice to the department, the
1634 court administrator, or the clerk of court or by payment from a
1635 credit card by the applicant or a vendor on behalf of the
1636 applicant. If the department, court administrator, or clerk of
1637 court is unable to conduct the background check, the supervised



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1638 visitation program may participate in the Volunteer and Employee
1639 Criminal History System, as authorized by the National Child
1640 Protection Act of 1993, as amended, and s. 943.0542, to obtain
1641 criminal history information.

1642 (d) The security background investigation must ensure that
1643 a person is not hired as an employee or certified as a volunteer
1644 if the person has an arrest awaiting final disposition for, has
1645 been convicted of, regardless of adjudication, has entered a
1646 plea of nolo contendere or guilty to, or has been adjudicated
1647 delinquent and the record has not been sealed or expunged for,
1648 any offense prohibited under s. 435.04(2).

1649 (e) In analyzing and evaluating the information obtained in
1650 the security background investigation, the program must give
1651 particular emphasis to past activities involving children,
1652 including, but not limited to, child-related criminal offenses
1653 or child abuse. The program has sole discretion in determining
1654 whether to hire or certify a person based on his or her security
1655 background investigation.

1656 (2) A person who is providing supervised visitation or
1657 exchange monitoring services through a supervised visitation
1658 program and who affirms to the court in writing that he or she
1659 abides by the state standards described in s. 753.06 is
1660 presumed, prima facie, to be acting in good faith. Such persons
1661 acting in good faith are immune from civil and criminal
1662 liability with regard to the provision of the services.

1663 Section 31. This act shall take effect October 1, 2012.

1664
1665 ===== T I T L E A M E N D M E N T =====

1666 And the title is amended as follows:



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1667
1668 Delete everything before the enacting clause
1669 and insert:
1670 A bill to be entitled
1671 An act relating to child visitation and adoption;
1672 amending s. 39.802, F.S.; requiring the Department of
1673 Children and Families to inform the parents of a child
1674 of the availability of private placement of the child
1675 with an adoption entity in certain circumstances;
1676 amending s. 63.022, F.S.; revising legislative intent
1677 to delete reference to reporting requirements for
1678 placements of minors and exceptions; amending s.
1679 63.032, F.S.; revising definitions; amending s.
1680 63.037, F.S.; exempting adoption proceedings initiated
1681 under chapter 39, F.S., from a requirement for a
1682 search of the Florida Putative Father Registry;
1683 amending s. 63.039, F.S.; providing that all adoptions
1684 of minor children require the use of an adoption
1685 entity that will assume the responsibilities provided
1686 in specified provisions; providing an exception;
1687 amending s. 63.0423, F.S.; revising terminology
1688 relating to surrendered infants; providing that an
1689 infant who tests positive for illegal drugs, narcotic
1690 prescription drugs, alcohol, or other substances, but
1691 shows no other signs of child abuse or neglect, shall
1692 be placed in the custody of an adoption entity;
1693 providing that a specified reporting requirement is
1694 not superseded; providing that when the Department of
1695 Children and Family Services is contacted regarding a



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1696 surrendered infant who does not appear to have been
1697 the victim of actual or suspected child abuse or
1698 neglect, it shall provide instruction to contact an
1699 adoption entity and may not take custody of the
1700 infant; providing an exception; revising provisions
1701 relating to scientific testing to determine the
1702 paternity or maternity of a minor; amending s.
1703 63.0425, F.S.; requiring that a child's residence be
1704 continuous for a specified period in order to entitle
1705 the grandparent to notice of certain proceedings;
1706 amending s. 63.0427, F.S.; prohibiting a court from
1707 increasing contact between an adopted child and
1708 siblings, birth parents, or other relatives without
1709 the consent of the adoptive parent or parents;
1710 amending s. 63.052, F.S.; deleting a requirement that
1711 a minor be permanently committed to an adoption entity
1712 in order for the entity to be guardian of the person
1713 of the minor; limiting the circumstances in which an
1714 intermediary may remove a child; providing that an
1715 intermediary does not become responsible for a minor
1716 child's medical bills that were incurred before taking
1717 physical custody of the child; providing additional
1718 placement options for a minor surrendered to an
1719 adoption entity for subsequent adoption when a
1720 suitable prospective adoptive home is not available;
1721 amending s. 63.053, F.S.; requiring that an unmarried
1722 biological father strictly comply with specified
1723 provisions in order to protect his interests; amending
1724 s. 63.054, F.S.; authorizing submission of an



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1725 alternative document to the Office of Vital Statistics
1726 by the petitioner in each proceeding for termination
1727 of parental rights; providing that by filing a claim
1728 of paternity form the registrant expressly consents to
1729 paying for DNA testing; requiring that an alternative
1730 address designated by a registrant be a physical
1731 address; providing that the filing of a claim of
1732 paternity with the Florida Putative Father Registry
1733 does not relieve a person from compliance with
1734 specified requirements; amending s. 63.062, F.S.;
1735 revising requirements for when a minor's father must
1736 be served prior to termination of parental rights;
1737 providing that consent of an unmarried biological
1738 father is not required if he fails to comply with
1739 specified requirements; revising such requirements;
1740 providing that the mere fact that a father expresses a
1741 desire to fulfill his responsibilities toward his
1742 child which is unsupported by acts evidencing this
1743 intent does not meet the requirements; providing for
1744 the sufficiency of an affidavit of nonpaternity;
1745 providing an exception to a condition to a petition to
1746 adopt an adult; amending s. 63.063, F.S.; conforming
1747 terminology; amending s. 63.082, F.S.; revising
1748 language concerning applicability of notice and
1749 consent provisions in cases in which the child is
1750 conceived as a result of a violation of criminal law;
1751 providing that a criminal conviction is not required
1752 for the court to find that the child was conceived as
1753 a result of a violation of criminal law; requiring an



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1754 affidavit of diligent search to be filed whenever a
1755 person who is required to consent is unavailable
1756 because the person cannot be located; providing that
1757 in an adoption of a stepchild or a relative, a
1758 certified copy of the death certificate of the person
1759 whose consent is required may be attached to the
1760 petition for adoption if a separate petition for
1761 termination of parental rights is not being filed;
1762 authorizing the execution of an affidavit of
1763 nonpaternity before the birth of a minor in preplanned
1764 adoptions; revising language of a consent to adoption;
1765 providing that a home study provided by the adoption
1766 entity shall be deemed to be sufficient except in
1767 certain circumstances; providing for a hearing if an
1768 adoption entity moves to intervene in a dependency
1769 case; revising language concerning seeking to revoke
1770 consent to an adoption of a child older than 6 months
1771 of age; providing that if the consent of one parent is
1772 set aside or revoked, any other consents executed by
1773 the other parent or a third party whose consent is
1774 required for the adoption of the child may not be used
1775 by the parent who consent was revoked or set aside to
1776 terminate or diminish the rights of the other parent
1777 or third party; amending s. 63.085, F.S.; revising
1778 language of an adoption disclosure statement;
1779 requiring that a copy of a waiver by prospective
1780 adoptive parents of receipt of certain records must be
1781 filed with the court; amending s. 63.087, F.S.;

1782 specifying that a failure to personally appear at a



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1783 proceeding to terminate parental rights constitutes
1784 grounds for termination; amending s. 63.088, F.S.;
1785 providing that, in a termination of parental rights
1786 proceeding, if a required inquiry identifies a father
1787 who has been adjudicated by a court as the father of
1788 the minor child before the date a petition for
1789 termination of parental rights is filed, the inquiry
1790 must terminate at that point; amending s. 63.089,
1791 F.S.; specifying that failure to personally appear
1792 provides grounds for termination of parental rights in
1793 certain circumstances; revising provisions relating to
1794 dismissal of petitions to terminate parental rights;
1795 providing that contact between a parent seeking relief
1796 from a judgment terminating parental rights and a
1797 child may be awarded only in certain circumstances;
1798 providing for placement of a child in the event that a
1799 court grants relief from a judgment terminating
1800 parental rights and no new pleading is filed to
1801 terminate parental rights; amending s. 63.092, F.S.;
1802 requiring that a signed copy of the home study must be
1803 provided to the intended adoptive parents who were the
1804 subject of the study; amending s. 63.097, F.S.;
1805 providing guidelines for a court considering a
1806 reasonable attorney fee associated with adoption
1807 services; amending s. 63.152, F.S.; authorizing an
1808 adoption entity to transmit a certified statement of
1809 the entry of a judgment of adoption to the state
1810 registrar of vital statistics; amending s. 63.162,
1811 F.S.; authorizing a birth parent to petition that



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1812 court to appoint an intermediary or an adoption entity
1813 to contact an adult adoptee and advise both of the
1814 availability of the adoption registry and that the
1815 birth parent wishes to establish contact; amending s.
1816 63.167, F.S.; requiring that the state adoption center
1817 provide contact information for all adoption entities
1818 in a caller's county or, if no adoption entities are
1819 located in the caller's county, the number of the
1820 nearest adoption entity when contacted for a referral
1821 to make an adoption plan; amending s. 63.212, F.S.;
1822 restricting who may place a paid advertisement or paid
1823 listing of the person's telephone number offering
1824 certain adoption services; requiring of publishers of
1825 telephone directories to include certain statements at
1826 the beginning of any classified heading for adoption
1827 and adoption services; providing requirements for such
1828 advertisements; providing criminal penalties for
1829 violations; prohibiting the offense of adoption
1830 deception by a person who is a birth mother or a woman
1831 who holds herself out to be a birth mother; providing
1832 criminal penalties; providing liability for certain
1833 damages; amending s. 63.213, F.S.; providing that a
1834 preplanned adoption arrangement does not constitute
1835 consent of a mother to place her biological child for
1836 adoption until 48 hours following birth; providing
1837 that a volunteer mother's right to rescind her consent
1838 in a preplanned adoption applies only when the child
1839 is genetically related to her; revising the
1840 definitions of the terms "child," "preplanned adoption



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1841 arrangement," and "volunteer mother"; amending s.
1842 63.222, F.S.; providing that provisions designated as
1843 remedial may apply to any proceedings pending on the
1844 effective date of the provisions; amending s. 63.2325,
1845 F.S.; revising terminology relating to revocation of
1846 consent to adoption; creating s. 753.06, F.S.;
1847 adopting state standards for supervised visitation
1848 programs; requiring each program to annually affirm
1849 compliance with the standards to the court; providing
1850 that after a specified date only those programs that
1851 adhere to the state standards may receive state
1852 funding; creating s. 753.07, F.S.; providing factors
1853 for the court or child-placing agency to consider when
1854 referring cases for supervised visitation or exchange
1855 monitoring; specifying training requirements for
1856 persons providing such services; authorizing
1857 supervised visitation programs to alert the court to
1858 problems with referred cases; creating s. 753.08,
1859 F.S.; requiring supervised visitation programs to
1860 conduct security background checks of employees and
1861 volunteers; providing requirements for such checks;
1862 requiring that an employer furnish a copy of the
1863 personnel record for the employee or former employee
1864 upon request; providing immunity to employers who
1865 provide information for purposes of a background
1866 check; requiring that all applicants hired or
1867 certified by a program after a specified date undergo
1868 a level 2 background screening; delegating
1869 responsibility for screening criminal history



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1870 information and for costs; authorizing a supervised
1871 visitation program to participate in the Volunteer and
1872 Employee Criminal History System in order to obtain
1873 criminal history information; providing that certain
1874 persons providing services at a supervised visitation
1875 program are presumed to act in good faith; providing
1876 that such persons acting in good faith are immune from
1877 civil and criminal liability; providing an effective
1878 date.