

By the Committee on Children, Families, and Elder Affairs; and
Senator Wise

586-02730-12

20121874c1

1 A bill to be entitled
2 An act relating to adoption; amending s. 63.022, F.S.;
3 revising legislative intent to delete a reference to
4 reporting requirements for placements of minors and
5 exceptions; amending s. 63.032, F.S.; revising
6 definitions; amending s. 63.037, F.S.; exempting
7 adoption proceedings initiated under chapter 39, F.S.,
8 from a requirement for a search of the Florida
9 Putative Father Registry; amending s. 63.039, F.S.;
10 providing that all adoptions of minor children require
11 the use of an adoption entity that will assume the
12 responsibilities provided in specified provisions;
13 providing an exception; amending s. 63.0423, F.S.;
14 revising terminology relating to surrendered infants;
15 providing that an infant who tests positive for
16 illegal drugs, narcotic prescription drugs, alcohol,
17 or other substances, but shows no other signs of child
18 abuse or neglect, shall be placed in the custody of an
19 adoption entity; providing that if the Department of
20 Children and Family Services is contacted regarding a
21 surrendered infant who does not appear to have been
22 the victim of actual or suspected child abuse or
23 neglect, it shall provide instruction to contact an
24 adoption entity and may not take custody of the
25 infant; providing an exception; revising provisions
26 relating to scientific testing to determine the
27 paternity or maternity of a minor; amending s.
28 63.0425, F.S.; requiring that a child's residence be
29 continuous for a specified period in order to entitle

586-02730-12

20121874c1

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

586-02730-12

20121874c1

59 address; providing that the filing of a claim of
60 paternity with the Florida Putative Father Registry
61 does not relieve a person from compliance with
62 specified requirements; amending s. 63.062, F.S.;
63 revising requirements for when a minor's father must
64 be served prior to termination of parental rights;
65 requiring that an unmarried biological father comply
66 with specified requirements in order for his consent
67 to be required for adoption; revising such
68 requirements; providing that the mere fact that a
69 father expresses a desire to fulfill his
70 responsibilities towards his child which is
71 unsupported by acts evidencing this intent does not
72 meet the requirements; providing for the sufficiency
73 of an affidavit of nonpaternity; providing an
74 exception to a condition to a petition to adopt an
75 adult; amending s. 63.063, F.S.; conforming
76 terminology; amending s. 63.082, F.S.; revising
77 language concerning applicability of notice and
78 consent provisions in cases in which the child is
79 conceived as a result of a violation of criminal law;
80 providing that a criminal conviction is not required
81 for the court to find that the child was conceived as
82 a result of a violation of criminal law; requiring an
83 affidavit of diligent search to be filed whenever a
84 person who is required to consent is unavailable
85 because the person cannot be located; providing that
86 in an adoption of a stepchild or a relative, a
87 certified copy of the death certificate of the person

586-02730-12

20121874c1

88 whose consent is required may be attached to the
89 petition for adoption if a separate petition for
90 termination of parental rights is not being filed;
91 authorizing the execution of an affidavit of
92 nonpaternity before the birth of a minor in preplanned
93 adoptions; revising language of a consent to adoption;
94 providing that a home study provided by the adoption
95 entity shall be deemed to be sufficient except in
96 certain circumstances; providing for a hearing if an
97 adoption entity moves to intervene in a dependency
98 case; revising language concerning seeking to revoke
99 consent to an adoption of a child older than 6 months
100 of age; providing that if the consent of one parent is
101 set aside or revoked, any other consents executed by
102 the other parent or a third party whose consent is
103 required for the adoption of the child may not be used
104 by the parent who consent was revoked or set aside to
105 terminate or diminish the rights of the other parent
106 or third party; amending s. 63.085, F.S.; revising
107 language of an adoption disclosure statement;
108 requiring that a copy of a waiver by prospective
109 adoptive parents of receipt of certain records must be
110 filed with the court; amending s. 63.087, F.S.;
111 specifying that a failure to personally appear at a
112 proceeding to terminate parental rights constitutes
113 grounds for termination; amending s. 63.088, F.S.;
114 providing that in a termination of parental rights
115 proceeding if a required inquiry that identifies a
116 father who has been adjudicated by a court as the

586-02730-12

20121874c1

117 father of the minor child before the date a petition
118 for termination of parental rights is filed the
119 inquiry must terminate at that point; amending s.
120 63.089, F.S.; specifying that it is a failure to
121 personally appear that provides grounds for
122 termination of parental rights in certain
123 circumstances; revising provisions relating to
124 dismissal of petitions to terminate parental rights;
125 providing that contact between a parent seeking relief
126 from a judgment terminating parental rights and a
127 child may be awarded only in certain circumstances;
128 providing for placement of a child in the event that a
129 court grants relief from a judgment terminating
130 parental rights and no new pleading is filed to
131 terminate parental rights; amending s. 63.092, F.S.;
132 requiring that a signed copy of the home study must be
133 provided to the intended adoptive parents who were the
134 subject of the study; amending s. 63.097, F.S.;
135 providing guidelines for a court considering a
136 reasonable attorney fee associated with adoption
137 services; amending s. 63.152, F.S.; authorizing an
138 adoption entity to transmit a certified statement of
139 the entry of a judgment of adoption to the state
140 registrar of vital statistics; amending s. 63.162,
141 F.S.; authorizing a birth parent to petition that
142 court to appoint an intermediary or a licensed child-
143 placing agency to contact an adult adoptee and advise
144 both of the availability of the adoption registry and
145 that the birth parent wishes to establish contact;

586-02730-12

20121874c1

146 amending s. 63.167, F.S.; requiring that the state
147 adoption center provide contact information for all
148 adoption entities in a caller's county or, if no
149 adoption entities are located in the caller's county,
150 the number of the nearest adoption entity when
151 contacted for a referral to make an adoption plan;
152 amending s. 63.212, F.S.; restricting who may place a
153 paid advertisement or paid listing of the person's
154 telephone number offering certain adoption services;
155 requiring of publishers of telephone directories to
156 include certain statements at the beginning of any
157 classified heading for adoption and adoption services;
158 providing requirements for such advertisements;
159 providing criminal penalties for violations;
160 prohibiting the offense of adoption deception by a
161 person who is a birth mother or a woman who holds
162 herself out to be a birth mother; providing criminal
163 penalties; providing liability by violators for
164 certain damages; amending s. 63.213, F.S.; providing
165 that a preplanned adoption arrangement does not
166 constitute consent of a mother to place her biological
167 child for adoption until 48 hours following birth;
168 providing that a volunteer mother's right to rescind
169 her consent in a preplanned adoption applies only when
170 the child is genetically related to her; revising the
171 definitions of the terms "child," "preplanned adoption
172 arrangement," and "volunteer mother"; amending s.
173 63.222, F.S.; providing that provisions designated as
174 remedial may apply to any proceedings pending on the

586-02730-12

20121874c1

175 effective date of the provisions; amending s. 63.2325,
176 F.S.; revising terminology relating to revocation of
177 consent to adoption; providing an effective date.
178

179 Be It Enacted by the Legislature of the State of Florida:
180

181 Section 1. Present paragraphs (e) through (m) of subsection
182 (4) of section 63.022, Florida Statutes, are redesignated as
183 paragraphs (d) through (l), respectively, and subsection (2) and
184 present paragraph (d) of subsection (4) of that section are
185 amended to read:

186 63.022 Legislative intent.—

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

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

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

197 Section 2. Subsections (1), (3), (12), (17), and (19) of
198 section 63.032, Florida Statutes, are amended to read:

199 63.032 Definitions.—As used in this chapter, the term:

200 (1) "Abandoned" means a situation in which the parent or
201 person having legal custody of a child, while being able, makes
202 little or no provision for the child's support or ~~and~~ makes
203 little or no effort to communicate with the child, which

586-02730-12

20121874c1

204 situation is sufficient to evince an intent to reject parental
205 responsibilities. If, in the opinion of the court, the efforts
206 of such parent or person having legal custody of the child to
207 support and communicate with the child are only marginal efforts
208 that do not evince a settled purpose to assume all parental
209 duties, the court may declare the child to be abandoned. In
210 making this decision, the court may consider the conduct of a
211 father towards the child's mother during her pregnancy.

212 (3) "Adoption entity" means the department, an agency, a
213 child-caring agency registered under s. 409.176, an
214 intermediary, a Florida-licensed child-placing agency, or a
215 child-placing agency licensed in another state which is
216 qualified by the department to place children in the State of
217 Florida.

218 (12) "Parent" means a woman who gives birth to a child and
219 who is not a gestational surrogate as defined in s. 742.13 or a
220 man whose consent to the adoption of the child would be required
221 under s. 63.062(1). If a child has been legally adopted, the
222 term "parent" means the adoptive mother or father of the child.
223 The term does not include an individual whose parental
224 relationship to the child has been legally terminated or an
225 alleged or prospective parent.

226 (17) "Suitability of the intended placement" means the
227 fitness of the intended placement, with primary consideration
228 being given to the best interests ~~interest~~ of the child.

229 (19) "Unmarried biological father" means the child's
230 biological father who is not married to the child's mother at
231 the time of conception or on the date of the birth of the child
232 and who, before the filing of a petition to terminate parental

586-02730-12

20121874c1

233 rights, has not been adjudicated by a court of competent
234 jurisdiction to be the legal father of the child or has not
235 filed ~~executed~~ an affidavit pursuant to s. 382.013(2)(c).

236 Section 3. Section 63.037, Florida Statutes, is amended to
237 read:

238 63.037 Proceedings applicable to cases resulting from a
239 termination of parental rights under chapter 39.—A case in which
240 a minor becomes available for adoption after the parental rights
241 of each parent have been terminated by a judgment entered
242 pursuant to chapter 39 shall be governed by s. 39.812 and this
243 chapter. Adoption proceedings initiated under chapter 39 are
244 exempt from the following provisions of this chapter:
245 requirement for search of the Florida Putative Father Registry
246 provided in s. 63.054(7), if a search was previously completed
247 and documentation of the search is contained in the case file;
248 disclosure requirements for the adoption entity provided in s.
249 63.085(1); general provisions governing termination of parental
250 rights pending adoption provided in s. 63.087; notice and
251 service provisions governing termination of parental rights
252 pending adoption provided in s. 63.088; and procedures for
253 terminating parental rights pending adoption provided in s.
254 63.089.

255 Section 4. Subsections (2) through (4) of section 63.039,
256 Florida Statutes, are renumbered as subsections (3) through (5),
257 respectively, and a new subsection (2) is added to that section
258 to read:

259 63.039 Duty of adoption entity to prospective adoptive
260 parents; sanctions.—

261 (2) With the exception of an adoption by a relative or

586-02730-12

20121874c1

262 stepparent, all adoptions of minor children require the use of
263 an adoption entity that will assume the responsibilities
264 provided in this section.

265 Section 5. Subsections (1), (2), (3), (4), (7), (8), and
266 (9) of section 63.0423, Florida Statutes, are amended to read:

267 63.0423 Procedures with respect to surrendered infants.—

268 (1) Upon entry of final judgment terminating parental
269 rights, an adoption entity ~~A licensed child-placing agency~~ that
270 takes physical custody of an infant surrendered at a hospital,
271 emergency medical services station, or fire station pursuant to
272 s. 383.50 assumes ~~shall assume~~ responsibility for the all
273 ~~medical costs~~ and ~~all~~ other costs associated with the emergency
274 services and care of the surrendered infant from the time the
275 adoption entity ~~licensed child-placing agency~~ takes physical
276 custody of the surrendered infant.

277 (2) The adoption entity ~~licensed child-placing agency~~ shall
278 immediately seek an order from the circuit court for emergency
279 custody of the surrendered infant. The emergency custody order
280 shall remain in effect until the court orders preliminary
281 approval of placement of the surrendered infant in the
282 prospective home, at which time the prospective adoptive parents
283 become guardians pending termination of parental rights and
284 finalization of adoption or until the court orders otherwise.
285 The guardianship of the prospective adoptive parents shall
286 remain subject to the right of the adoption entity ~~licensed~~
287 ~~child-placing agency~~ to remove the surrendered infant from the
288 placement during the pendency of the proceedings if such removal
289 is deemed by the adoption entity ~~licensed child-placing agency~~
290 to be in the best interests ~~interest~~ of the child. The adoption

586-02730-12

20121874c1

291 entity licensed child placing agency may immediately seek to
292 place the surrendered infant in a prospective adoptive home.

293 (3) The adoption entity licensed child placing agency that
294 takes physical custody of the surrendered infant shall, within
295 24 hours thereafter, request assistance from law enforcement
296 officials to investigate and determine, through the Missing
297 Children Information Clearinghouse, the National Center for
298 Missing and Exploited Children, and any other national and state
299 resources, whether the surrendered infant is a missing child.

300 (4) The parent who surrenders the infant in accordance with
301 s. 383.50 is presumed to have consented to termination of
302 parental rights, and express consent is not required. Except
303 when there is actual or suspected child abuse or neglect, the
304 adoption entity may licensed child placing agency shall not
305 attempt to pursue, search for, or notify that parent as provided
306 in s. 63.088 and chapter 49. For purposes of s. 383.50 and this
307 section, an infant who tests positive for illegal drugs,
308 narcotic prescription drugs, alcohol, or other substances, but
309 shows no other signs of child abuse or neglect, shall be placed
310 in the custody of an adoption entity. This provision does not
311 eliminate the reporting requirement under s. 383.50(7). When the
312 department is contacted regarding an infant properly surrendered
313 under this section and s. 383.50, the department shall provide
314 instruction to contact an adoption entity and may not take
315 custody of the infant unless reasonable efforts to contact an
316 adoption entity to accept the infant have not been successful.

317 (7) If a claim of parental rights of a surrendered infant
318 is made before the judgment to terminate parental rights is
319 entered, the circuit court may hold the action for termination

586-02730-12

20121874c1

320 of parental rights ~~pending subsequent adoption~~ in abeyance for a
321 period of time not to exceed 60 days.

322 (a) The court may order scientific testing to determine
323 maternity or paternity at the expense of the parent claiming
324 parental rights.

325 (b) The court shall appoint a guardian ad litem for the
326 surrendered infant and order whatever investigation, home
327 evaluation, and psychological evaluation are necessary to
328 determine what is in the best interests ~~interest~~ of the
329 surrendered infant.

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

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

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

341 (9) (a) A judgment terminating parental rights pending
342 adoption is voidable, and any later judgment of adoption of that
343 minor is voidable, if, upon the motion of a ~~birth~~ parent, the
344 court finds that a person knowingly gave false information that
345 prevented the ~~birth~~ parent from timely making known his or her
346 desire to assume parental responsibilities toward the minor or
347 from exercising his or her parental rights. A motion under this
348 subsection must be filed with the court originally entering the

586-02730-12

20121874c1

349 judgment. The motion must be filed within a reasonable time but
350 not later than 1 year after the entry of the judgment
351 terminating parental rights.

352 (b) No later than 30 days after the filing of a motion
353 under this subsection, the court shall conduct a preliminary
354 hearing to determine what contact, if any, will be permitted
355 between a ~~birth~~ parent and the child pending resolution of the
356 motion. Such contact may be allowed only if it is requested by a
357 parent who has appeared at the hearing and the court determines
358 that it is in the best interests ~~interest~~ of the child. If the
359 court orders contact between a ~~birth~~ parent and the child, the
360 order must be issued in writing as expeditiously as possible and
361 must state with specificity any provisions regarding contact
362 with persons other than those with whom the child resides.

363 (c) ~~At the preliminary hearing, The court, upon the motion~~
364 ~~of any party or upon its own motion, may not~~ order scientific
365 testing to determine the paternity or maternity of the minor
366 until such time as the court determines that a previously
367 entered judgment terminating the parental rights of that parent
368 is voidable pursuant to paragraph (a), unless all parties agree
369 that such testing is in the best interests of the child ~~if the~~
370 ~~person seeking to set aside the judgment is alleging to be the~~
371 ~~child's birth parent but has not previously been determined by~~
372 ~~legal proceedings or scientific testing to be the birth parent.~~
373 Upon the filing of test results establishing that person's
374 maternity or paternity of the surrendered infant, the court may
375 order visitation only if it appears to be as it deems
376 ~~appropriate and~~ in the best interests ~~interest~~ of the child.

377 (d) Within 45 days after the preliminary hearing, the court

586-02730-12

20121874c1

378 shall conduct a final hearing on the motion to set aside the
379 judgment and shall enter its written order as expeditiously as
380 possible thereafter.

381 Section 6. Subsection (1) of section 63.0425, Florida
382 Statutes, is amended to read:

383 63.0425 Grandparent's right to notice.—

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

389 Section 7. Section 63.0427, Florida Statutes, is amended to
390 read:

391 63.0427 Agreements for ~~Adopted minor's right to~~ continued
392 communication or contact between adopted child and ~~with~~
393 siblings, parents, and other relatives.—

394 (1) A child whose parents have had their parental rights
395 terminated and whose custody has been awarded to the department
396 pursuant to s. 39.811, and who is the subject of a petition for
397 adoption under this chapter, shall have the right to have the
398 court consider the appropriateness of postadoption communication
399 or contact, including, but not limited to, visits, written
400 correspondence, or telephone calls, with his or her siblings or,
401 upon agreement of the adoptive parents, with the parents who
402 have had their parental rights terminated or other specified
403 biological relatives. The court shall consider the following in
404 making such determination:

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

406 (b) Recommendations of the department, the foster parents

586-02730-12

20121874c1

407 if other than the adoptive parents, and the guardian ad litem.

408 (c) Statements of the prospective adoptive parents.

409 (d) Any other information deemed relevant and material by
410 the court.

411
412 If the court determines that the child's best interests will be
413 served by postadoption communication or contact, the court shall
414 so order, stating the nature and frequency of ~~for~~ the
415 communication or contact. This order shall be made a part of the
416 final adoption order, but ~~in no event shall~~ the continuing
417 validity of the adoption may not be contingent upon such
418 postadoption communication or contact and, ~~nor shall~~ the ability
419 of the adoptive parents and child to change residence within or
420 outside the State of Florida may not be impaired by such
421 communication or contact.

422 (2) Notwithstanding ~~the provisions of~~ s. 63.162, the
423 adoptive parent may, at any time, petition for review of a
424 communication or contact order entered pursuant to subsection
425 (1), if the adoptive parent believes that the best interests of
426 the adopted child are being compromised, and the court may ~~shall~~
427 ~~have authority to~~ order the communication or contact to be
428 terminated or modified, as the court deems to be in the best
429 interests of the adopted child; however, the court may not
430 increase contact between the adopted child and siblings, birth
431 parents, or other relatives without the consent of the adoptive
432 parent or parents. As part of the review process, the court may
433 order the parties to engage in mediation. The department shall
434 not be required to be a party to such review.

435 (3) Prospective adoptive parents may enter into an

586-02730-12

20121874c1

436 agreement for contact between the child to be adopted and the
437 birth parent, other relative, or previous foster parent of the
438 child to be adopted. Such contact may include visits, written
439 correspondence, telephone contact, exchange of photographs, or
440 other similar types of contact. The agreement is enforceable by
441 the court only if:

442 (a) The agreement was in writing and was submitted to the
443 court.

444 (b) The adoptive parents have agreed to the terms of the
445 contact agreement.

446 (c) The court finds the contact to be in the best interests
447 of the child.

448 (d) The child, if 12 years of age or older, has agreed to
449 the contact outlined in the agreement.

450 (4) All parties must acknowledge that a dispute regarding
451 the contact agreement does not affect the validity or finality
452 of the adoption and that a breach of the agreement may not be
453 grounds to set aside the adoption or otherwise impact the
454 validity or finality of the adoption in any way.

455 (5) An adoptive parent may terminate the contact between
456 the child and the birth parent, other relative, or foster parent
457 if the adoptive parent reasonably believes that the contact is
458 detrimental to the best interests of the child.

459 (6) In order to terminate the agreement for contact, the
460 adoptive parent must file a notice of intent to terminate the
461 contact agreement with the court that initially approved the
462 contact agreement, and provide a copy of the notice to the
463 adoption entity that placed the child, if any, and to the birth
464 parent, other relative, or foster parent of the child who is a

586-02730-12

20121874c1

465 party to the agreement, outlining the reasons for termination of
466 the agreement.

467 (7) If appropriate under the circumstances of the case, the
468 court may order the parties to participate in mediation to
469 attempt to resolve the issues with the contact agreement. The
470 mediation shall be conducted pursuant to s. 61.183. The
471 petitioner shall be responsible for payment for the services of
472 the mediator.

473 (8) The court may modify the terms of the agreement in
474 order to serve the best interests of the child, but may not
475 increase the amount or type of contact unless the adoptive
476 parents agree to the increase in contact or change in the type
477 of contact.

478 (9) An agreement for contact entered into under this
479 subsection is enforceable even if it does not fully disclose the
480 identity of the parties to the agreement or if identifying
481 information has been redacted from the agreement.

482 Section 8. Subsections (1), (2), (3), and (6) of section
483 63.052, Florida Statutes, are amended to read:

484 63.052 Guardians designated; proof of commitment.—

485 (1) For minors who have been placed for adoption with ~~and~~
486 ~~permanently committed to~~ an adoption entity, other than an
487 intermediary, such adoption entity shall be the guardian of the
488 person of the minor and has the responsibility and authority to
489 provide for the needs and welfare of the minor.

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

586-02730-12

20121874c1

494 the prospective adoptive home, after which time the prospective
495 adoptive parents shall become guardians pending finalization of
496 adoption, subject to the intermediary's right and responsibility
497 to remove the child from the prospective adoptive home if the
498 removal is deemed by the intermediary to be in the best
499 interests ~~interest~~ of the child. The intermediary may not remove
500 the child without a court order unless the child is in danger of
501 imminent harm. The intermediary does not become responsible for
502 the minor child's medical bills that were incurred before taking
503 physical custody of the child after the execution of adoption
504 consents. Prior to the court's entry of an order granting
505 preliminary approval of the placement, the intermediary shall
506 have the responsibility and authority to provide for the needs
507 and welfare of the minor. A ~~No~~ minor may not ~~shall~~ be placed in
508 a prospective adoptive home until that home has received a
509 favorable preliminary home study, as provided in s. 63.092,
510 completed and approved within 1 year before such placement in
511 the prospective home. The provisions of s. 627.6578 shall remain
512 in effect notwithstanding the guardianship provisions in this
513 section.

514 (3) If a minor is surrendered to an adoption entity for
515 subsequent adoption and a suitable prospective adoptive home is
516 not available pursuant to s. 63.092 at the time the minor is
517 surrendered to the adoption entity, the minor must be placed in
518 a licensed foster care home, ~~or~~ with a person or family that has
519 received a favorable preliminary home study pursuant to
520 subsection (2), or with a relative until ~~such~~ a suitable
521 prospective adoptive home is available.

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

586-02730-12

20121874c1

523 court, the department is not responsible for expenses incurred
524 by other adoption entities participating in a placement of a
525 minor.

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

528 63.053 Rights and responsibilities of an unmarried
529 biological father; legislative findings.—

530 (2) The Legislature finds that the interests of the state,
531 the mother, the child, and the adoptive parents described in
532 this chapter outweigh the interest of an unmarried biological
533 father who does not take action in a timely manner to establish
534 and demonstrate a relationship with his child in accordance with
535 the requirements of this chapter. An unmarried biological father
536 has the primary responsibility to protect his rights and is
537 presumed to know that his child may be adopted without his
538 consent unless he strictly complies with ~~the provisions of~~ this
539 chapter and demonstrates a prompt and full commitment to his
540 parental responsibilities.

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

543 Section 10. Subsections (1), (2), (4), and (13) of section
544 63.054, Florida Statutes, are amended to read:

545 63.054 Actions required by an unmarried biological father
546 to establish parental rights; Florida Putative Father Registry.—

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

586-02730-12

20121874c1

552 includes confirmation of his willingness and intent to support
553 the child for whom paternity is claimed in accordance with state
554 law. The claim of paternity may be filed at any time before the
555 child's birth, but may not be filed after the date a petition is
556 filed for termination of parental rights. In each proceeding for
557 termination of parental rights, the petitioner must submit to
558 the Office of Vital Statistics a copy of the petition for
559 termination of parental rights or a document executed by the
560 clerk of the court showing the style of the case, the names of
561 the persons whose rights are sought to be terminated, and the
562 date and time of the filing of the petition. The Office of Vital
563 Statistics may not record a claim of paternity after the date a
564 petition for termination of parental rights is filed. The
565 failure of an unmarried biological father to file a claim of
566 paternity with the registry before the date a petition for
567 termination of parental rights is filed also bars him from
568 filing a paternity claim under chapter 742.

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

572 1. The mother identifies him to the adoption entity as a
573 potential biological father by the date she executes a consent
574 for adoption; and

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

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

586-02730-12

20121874c1

581 submit to the Office of Vital Statistics a copy of the notice of
582 intended adoption plan and proof of service of the notice on the
583 potential biological father.

584 (c) An unmarried biological father who falls within the
585 exception provided by paragraph (a) may not file a claim of
586 paternity with the registry or a paternity claim under chapter
587 742 after the 30-day mandatory response date to the notice of
588 intended adoption plan has expired. The Office of Vital
589 Statistics may not record a claim of paternity 30 days after
590 service of the notice of intended adoption plan.

591 (2) By filing a claim of paternity form with the Office of
592 Vital Statistics, the registrant expressly consents to submit to
593 and pay for DNA testing upon the request of any party, the
594 registrant, or the adoption entity with respect to the child
595 referenced in the claim of paternity.

596 (4) Upon initial registration, or at any time thereafter,
597 the registrant may designate a physical ~~an~~ address other than
598 his residential address for sending any communication regarding
599 his registration. Similarly, upon initial registration, or at
600 any time thereafter, the registrant may designate, in writing,
601 an agent or representative to receive any communication on his
602 behalf and receive service of process. The agent or
603 representative must file an acceptance of the designation, in
604 writing, in order to receive notice or service of process. The
605 failure of the designated representative or agent of the
606 registrant to deliver or otherwise notify the registrant of
607 receipt of correspondence from the Florida Putative Father
608 Registry is at the registrant's own risk and may ~~shall~~ not serve
609 as a valid defense based upon lack of notice.

586-02730-12

20121874c1

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

616 Section 11. Paragraph (b) of subsection (1), subsections
617 (2), (3), and (4), and paragraph (a) of subsection (8) of
618 section 63.062, Florida Statutes, are amended to read:

619 63.062 Persons required to consent to adoption; affidavit
620 of nonpaternity; waiver of venue.—

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

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

627 1. The minor was conceived or born while the father was
628 married to the mother;

629 2. The minor is his child by adoption;

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

633 4. He has filed an affidavit of paternity pursuant to s.
634 382.013(2)(c) or he is listed on the child's birth certificate
635 before ~~by~~ the date a petition ~~is filed~~ for termination of
636 parental rights is filed; or

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

586-02730-12

20121874c1

639 witness, that he is the father of the minor, has filed such
640 acknowledgment with the Office of Vital Statistics of the
641 Department of Health within the required timeframes, and has
642 complied with the requirements of subsection (2).

643

644 The status of the father shall be determined at the time of the
645 filing of the petition to terminate parental rights and may not
646 be modified, except as otherwise provided in s. 63.0423(9)(a),
647 for purposes of his obligations and rights under this chapter by
648 acts occurring after the filing of the petition to terminate
649 parental rights.

650 (2) In accordance with subsection (1), the consent of an
651 unmarried biological father shall be necessary only if the
652 unmarried biological father has complied with the requirements
653 of this subsection.

654 (a)1. With regard to a child who is placed with adoptive
655 parents more than 6 months after the child's birth, an unmarried
656 biological father must have developed a substantial relationship
657 with the child, taken some measure of responsibility for the
658 child and the child's future, and demonstrated a full commitment
659 to the responsibilities of parenthood by providing reasonable
660 and regular financial support to the child in accordance with
661 the unmarried biological father's ability, if not prevented from
662 doing so by the person or authorized agency having lawful
663 custody of the child, and either:

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

586-02730-12

20121874c1

668 b. Maintained regular communication with the child or with
669 the person or agency having the care or custody of the child,
670 when physically or financially unable to visit the child or when
671 not prevented from doing so by the birth mother or person or
672 authorized agency having lawful custody of the child.

673 ~~2. The mere fact that an unmarried biological father~~
674 ~~expresses a desire to fulfill his responsibilities towards his~~
675 ~~child which is unsupported by acts evidencing this intent does~~
676 ~~not preclude a finding by the court that the unmarried~~
677 ~~biological father failed to comply with the requirements of this~~
678 ~~subsection.~~

679 ~~2.3.~~ An unmarried biological father who openly lived with
680 the child for at least 6 months within the 1-year period
681 following the birth of the child and immediately preceding
682 placement of the child with adoptive parents and who openly held
683 himself out to be the father of the child during that period
684 shall be deemed to have developed a substantial relationship
685 with the child and to have otherwise met the requirements of
686 this paragraph.

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

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

586-02730-12

20121874c1

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

699 2. Upon service of a notice of an intended adoption plan or
700 a petition for termination of parental rights pending adoption,
701 executed and filed an affidavit in that proceeding stating that
702 he is personally fully able and willing to take responsibility
703 for the child, setting forth his plans for care of the child,
704 and agreeing to a court order of child support and a
705 contribution to the payment of living and medical expenses
706 incurred for the mother's pregnancy and the child's birth in
707 accordance with his ability to pay.

708 3. If he had knowledge of the pregnancy, paid a fair and
709 reasonable amount of the living and medical expenses incurred in
710 connection with the mother's pregnancy and the child's birth, in
711 accordance with his financial ability and when not prevented
712 from doing so by the birth mother or person or authorized agency
713 having lawful custody of the child. The responsibility of the
714 unmarried biological father to provide financial assistance to
715 the birth mother during her pregnancy and to the child after
716 birth is not abated because support is being provided to the
717 birth mother or child by the adoption entity, a prospective
718 adoptive parent, or a third party, nor does it serve as a basis
719 to excuse the birth father's failure to provide support.

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

724 (d)~~(e)~~ The petitioner shall file with the court a
725 certificate from the Office of Vital Statistics stating that a

586-02730-12

20121874c1

726 diligent search has been made of the Florida Putative Father
727 Registry of notices from unmarried biological fathers described
728 in subparagraph (b)1. and that no filing has been found
729 pertaining to the father of the child in question or, if a
730 filing is found, stating the name of the putative father and the
731 time and date of filing. That certificate shall be filed with
732 the court prior to the entry of a final judgment of termination
733 of parental rights.

734 (e) ~~(d)~~ An unmarried biological father who does not comply
735 with each of the conditions provided in this subsection is
736 deemed to have waived and surrendered any rights in relation to
737 the child, including the right to notice of any judicial
738 proceeding in connection with the adoption of the child, and his
739 consent to the adoption of the child is not required.

740 (3) Pursuant to chapter 48, an adoption entity shall serve
741 a notice of intended adoption plan upon any known and locatable
742 unmarried biological father who is identified to the adoption
743 entity by the mother by the date she signs her consent for
744 adoption if the child is 6 months of age or less at the time the
745 consent is executed ~~or who is identified by a diligent search of~~
746 ~~the Florida Putative Father Registry, or upon an entity whose~~
747 ~~consent is required.~~ Service of the notice of intended adoption
748 plan is not required ~~mandatory~~ when the unmarried biological
749 father signs a consent for adoption or an affidavit of
750 nonpaternity or when the child is more than 6 months of age at
751 the time of the execution of the consent by the mother. The
752 notice may be served at any time before the child's birth or
753 before placing the child in the adoptive home. The recipient of
754 the notice may waive service of process by executing a waiver

586-02730-12

20121874c1

755 and acknowledging receipt of the plan. The notice of intended
756 adoption plan must specifically state that if the unmarried
757 biological father desires to contest the adoption plan he must,
758 within 30 days after service, file with the court a verified
759 response that contains a pledge of commitment to the child in
760 substantial compliance with subparagraph (2)(b)2. and a claim of
761 paternity form with the Office of Vital Statistics, and must
762 provide the adoption entity with a copy of the verified response
763 filed with the court and the claim of paternity form filed with
764 the Office of Vital Statistics. The notice must also include
765 instructions for submitting a claim of paternity form to the
766 Office of Vital Statistics and the address to which the claim
767 must be sent. If the party served with the notice of intended
768 adoption plan is an entity whose consent is required, the notice
769 must specifically state that the entity must file, within 30
770 days after service, a verified response setting forth a legal
771 basis for contesting the intended adoption plan, specifically
772 addressing the best interests ~~interest~~ of the child.

773 (a) If the unmarried biological father or entity whose
774 consent is required fails to timely and properly file a verified
775 response with the court and, in the case of an unmarried
776 biological father, a claim of paternity form with the Office of
777 Vital Statistics, the court shall enter a default judgment
778 against the ~~any~~ unmarried biological father or entity and the
779 consent of that unmarried biological father or entity shall no
780 longer be required under this chapter and shall be deemed to
781 have waived any claim of rights to the child. To avoid an entry
782 of a default judgment, within 30 days after receipt of service
783 of the notice of intended adoption plan:

586-02730-12

20121874c1

- 784 1. The unmarried biological father must:
- 785 a. File a claim of paternity with the Florida Putative
- 786 Father Registry maintained by the Office of Vital Statistics;
- 787 b. File a verified response with the court which contains a
- 788 pledge of commitment to the child in substantial compliance with
- 789 subparagraph (2) (b) 2.; and
- 790 c. Provide support for the birth mother and the child.
- 791 2. The entity whose consent is required must file a
- 792 verified response setting forth a legal basis for contesting the
- 793 intended adoption plan, specifically addressing the best
- 794 interests ~~interest~~ of the child.
- 795 (b) If the mother identifies a potential unmarried
- 796 biological father within the timeframes required by the statute,
- 797 whose location is unknown, the adoption entity shall conduct a
- 798 diligent search pursuant to s. 63.088. If, upon completion of a
- 799 diligent search, the potential unmarried biological father's
- 800 location remains unknown and a search of the Florida Putative
- 801 Father Registry fails to reveal a match, the adoption entity
- 802 shall request in the petition for termination of parental rights
- 803 pending adoption that the court declare the diligent search to
- 804 be in compliance with s. 63.088, that the adoption entity has no
- 805 further obligation to provide notice to the potential unmarried
- 806 biological father, and that the potential unmarried biological
- 807 father's consent to the adoption is not required.
- 808 (4) Any person whose consent is required under paragraph
- 809 (1) (b), or any other man, may execute an irrevocable affidavit
- 810 of nonpaternity in lieu of a consent under this section and by
- 811 doing so waives notice to all court proceedings after the date
- 812 of execution. An affidavit of nonpaternity must be executed as

586-02730-12

20121874c1

813 provided in s. 63.082. The affidavit of nonpaternity may be
814 executed prior to the birth of the child. The person executing
815 the affidavit must receive disclosure under s. 63.085 prior to
816 signing the affidavit. For purposes of this chapter, an
817 affidavit of nonpaternity is sufficient if it contains a
818 specific denial of parental obligations and does not need to
819 deny the existence of a biological relationship.

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

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

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

826 63.063 Responsibility of parents for actions; fraud or
827 misrepresentation; contesting termination of parental rights and
828 adoption.—

829 (2) Any person injured by a fraudulent representation or
830 action in connection with an adoption may pursue civil or
831 criminal penalties as provided by law. A fraudulent
832 representation is not a defense to compliance with the
833 requirements of this chapter and is not a basis for dismissing a
834 petition for termination of parental rights or a petition for
835 adoption, for vacating an adoption decree, or for granting
836 custody to the offended party. Custody and adoption
837 determinations must be based on the best interests ~~interest~~ of
838 the child in accordance with s. 61.13.

839 Section 13. Paragraph (d) of subsection (1), paragraphs (c)
840 and (d) of subsection (3), paragraphs (a), (d), and (e) of
841 subsection (4), and subsections (6) and (7) of section 63.082,

586-02730-12

20121874c1

842 Florida Statutes, are amended to read:

843 63.082 Execution of consent to adoption or affidavit of
844 nonpaternity; family social and medical history; revocation
845 ~~withdrawal~~ of consent.-

846 (1)

847 (d) The notice and consent provisions of this chapter as
848 they relate to the father ~~birth~~ of a child ~~or to legal fathers~~
849 do not apply in cases in which the child is conceived as a
850 result of a violation of the criminal laws of this or another
851 state or country, including, but not limited to, sexual battery,
852 unlawful sexual activity with certain minors under s. 794.05,
853 lewd acts perpetrated upon a minor, or incest. A criminal
854 conviction is not required for the court to find that the child
855 was conceived as a result of a violation of the criminal laws of
856 this state or another state or country.

857 (3)

858 (c) If any person who is required to consent is unavailable
859 because the person cannot be located, an ~~the~~ ~~petition to~~
860 ~~terminate parental rights pending adoption must be accompanied~~
861 ~~by the~~ affidavit of diligent search required under s. 63.088
862 shall be filed.

863 (d) If any person who is required to consent is unavailable
864 because the person is deceased, the petition to terminate
865 parental rights pending adoption must be accompanied by a
866 certified copy of the death certificate. In an adoption of a
867 stepchild or a relative, the certified copy of the death
868 certificate of the person whose consent is required may ~~must~~ be
869 attached to the petition for adoption if a separate petition for
870 termination of parental rights is not being filed.

586-02730-12

20121874c1

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

875 (d) The consent to adoption or the affidavit of
876 nonpaternity must be signed in the presence of two witnesses and
877 be acknowledged before a notary public who is not signing as one
878 of the witnesses. The notary public must legibly note on the
879 consent or the affidavit the date and time of execution. The
880 witnesses' names must be typed or printed underneath their
881 signatures. The witnesses' home or business addresses must be
882 included. The person who signs the consent or the affidavit has
883 the right to have at least one of the witnesses be an individual
884 who does not have an employment, professional, or personal
885 relationship with the adoption entity or the prospective
886 adoptive parents. The adoption entity must give reasonable
887 advance notice to the person signing the consent or affidavit of
888 the right to select a witness of his or her own choosing. The
889 person who signs the consent or affidavit must acknowledge in
890 writing on the consent or affidavit that such notice was given
891 and indicate the witness, if any, who was selected by the person
892 signing the consent or affidavit. The adoption entity must
893 include its name, address, and telephone number on the consent
894 to adoption or affidavit of nonpaternity.

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

899 CONSENT TO ADOPTION

586-02730-12

20121874c1

900
901 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT
902 HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH
903 THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE
904 PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A
905 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE
906 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR
907 WITNESSES YOU SELECTED, IF ANY.

908
909 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE
910 FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS
911 CONSENT:

- 912
- 913 1. CONSULT WITH AN ATTORNEY;
 - 914 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE
915 LEGALLY PROHIBITED;
 - 916 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR
917 FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
 - 918 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY PROHIBITED;
 - 919 AND
 - 920 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE
921 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

922
923 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO
924 YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE
925 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP
926 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED
927 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL
928 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE

586-02730-12

20121874c1

929 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT
 930 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
 931 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN
 932 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT
 933 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
 934 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY
 935 BE EXECUTED. ANY MAN MAY EXECUTE A CONSENT AT ANY TIME AFTER THE
 936 BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT, IT IS
 937 VALID, BINDING, AND IRREVOCABLE AND CANNOT BE INVALIDATED
 938 ~~WITHDRAWN~~ UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
 939 DURESS.

940
 941 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR DURESS
 942 AND YOU WISH TO INVALIDATE ~~REVOKE~~ THAT CONSENT, YOU MUST:

- 943
- 944 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT
 - 945 YOU WISH TO WITHDRAW YOUR CONSENT; AND
 - 946 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD OR
 - 947 DURESS.

948

949 This statement of rights is not required for the adoption of a
 950 relative, an adult, a stepchild, or a child older than 6 months
 951 of age. A consent form for the adoption of a child older than 6
 952 months of age at the time of the execution of consent must
 953 contain a statement outlining the revocation rights provided in
 954 paragraph (c).

955 (6) (a) If a parent executes a consent for placement of a
 956 minor with an adoption entity or qualified prospective adoptive
 957 parents and the minor child is in the custody of the department,

586-02730-12

20121874c1

958 but parental rights have not yet been terminated, the adoption
959 consent is valid, binding, and enforceable by the court.

960 (b) Upon execution of the consent of the parent, the
961 adoption entity shall be permitted to ~~may~~ intervene in the
962 dependency case as a party in interest and must provide the
963 court that acquired ~~having~~ jurisdiction over the minor, pursuant
964 to the shelter or dependency petition filed by the department, a
965 copy of the preliminary home study of the prospective adoptive
966 parents and any other evidence of the suitability of the
967 placement. The preliminary home study must be maintained with
968 strictest confidentiality within the dependency court file and
969 the department's file. A preliminary home study must be provided
970 to the court in all cases in which an adoption entity has
971 intervened pursuant to this section. Unless the court has
972 concerns regarding the qualifications of the home study
973 provider, or concerns that the home study may not be adequate to
974 determine the best interests of the child, the home study
975 provided by the adoption entity shall be deemed to be sufficient
976 and no additional home study needs to be performed by the
977 department.

978 (c) If an adoption entity files a motion to intervene in
979 the dependency case in accordance with this chapter, the
980 dependency court shall promptly grant a hearing to determine
981 whether the adoption entity has filed the required documents to
982 be permitted to intervene and whether a change of placement of
983 the child is appropriate.

984 (d) ~~(e)~~ Upon a determination by the court that the
985 prospective adoptive parents are properly qualified to adopt the
986 minor child and that the adoption appears to be in the best

586-02730-12

20121874c1

987 interests ~~interest~~ of the minor child, the court shall
988 immediately order the transfer of custody of the minor child to
989 the prospective adoptive parents, under the supervision of the
990 adoption entity. The adoption entity shall thereafter provide
991 monthly supervision reports to the department until finalization
992 of the adoption.

993 (e) ~~(d)~~ In determining whether the best interests ~~interest~~
994 of the child are ~~is~~ served by transferring the custody of the
995 minor child to the prospective adoptive parent selected by the
996 parent, the court shall consider the rights of the parent to
997 determine an appropriate placement for the child, the permanency
998 offered, the child's bonding with any potential adoptive home
999 that the child has been residing in, and the importance of
1000 maintaining sibling relationships, if possible.

1001 (7) If a person is seeking to revoke ~~withdraw~~ consent for a
1002 child older than 6 months of age ~~who has been placed with~~
1003 ~~prospective adoptive parents~~:

1004 (a) The person seeking to revoke ~~withdraw~~ consent must, in
1005 accordance with paragraph (4)(c), notify the adoption entity in
1006 writing by certified mail, return receipt requested, within 3
1007 business days after execution of the consent. As used in this
1008 subsection, the term "business day" means any day on which the
1009 United States Postal Service accepts certified mail for
1010 delivery.

1011 (b) Upon receiving timely written notice from a person
1012 whose consent to adoption is required of that person's desire to
1013 revoke ~~withdraw~~ consent, the adoption entity must contact the
1014 prospective adoptive parent to arrange a time certain for the
1015 adoption entity to regain physical custody of the minor, unless,

586-02730-12

20121874c1

1016 upon a motion for emergency hearing by the adoption entity, the
1017 court determines in written findings that placement of the minor
1018 with the person who had legal or physical custody of the child
1019 immediately before the child was placed for adoption may
1020 endanger the minor or that the person who desires to revoke
1021 ~~withdraw~~ consent is not required to consent to the adoption, has
1022 been determined to have abandoned the child, or is otherwise
1023 subject to a determination that the person's consent is waived
1024 under this chapter.

1025 (c) If the court finds that the placement may endanger the
1026 minor, the court shall enter an order continuing the placement
1027 of the minor with the prospective adoptive parents pending
1028 further proceedings if they desire continued placement. If the
1029 prospective adoptive parents do not desire continued placement,
1030 the order must include, but need not be limited to, a
1031 determination of whether temporary placement in foster care,
1032 with the person who had legal or physical custody of the child
1033 immediately before placing the child for adoption, or with a
1034 relative is in the best interests ~~interest~~ of the child and
1035 whether an investigation by the department is recommended.

1036 (d) If the person revoking ~~withdrawing~~ consent claims to be
1037 the father of the minor but has not been established to be the
1038 father by marriage, court order, or scientific testing, the
1039 court may order scientific paternity testing and reserve ruling
1040 on removal of the minor until the results of such testing have
1041 been filed with the court.

1042 (e) The adoption entity must return the minor within 3
1043 business days after timely and proper notification of the
1044 revocation ~~withdrawal~~ of consent or after the court determines

586-02730-12

20121874c1

1045 that revocation ~~withdrawal~~ is timely and in accordance with the
1046 requirements of this chapter ~~valid and binding~~ upon
1047 consideration of an emergency motion, as filed pursuant to
1048 paragraph (b), to the physical custody of the person revoking
1049 ~~withdrawing~~ consent or the person directed by the court. If the
1050 person seeking to revoke ~~withdraw~~ consent claims to be the
1051 father of the minor but has not been established to be the
1052 father by marriage, court order, or scientific testing, the
1053 adoption entity may return the minor to the care and custody of
1054 the mother, if she desires such placement and she is not
1055 otherwise prohibited by law from having custody of the child.

1056 (f) Following the revocation period ~~for withdrawal of~~
1057 ~~consent~~ described in paragraph (a), ~~or the placement of the~~
1058 ~~child with the prospective adoptive parents, whichever occurs~~
1059 ~~later~~, consent may be set aside ~~withdrawn~~ only when the court
1060 finds that the consent was obtained by fraud or duress.

1061 (g) An affidavit of nonpaternity may be set aside ~~withdrawn~~
1062 only if the court finds that the affidavit was obtained by fraud
1063 or duress.

1064 (h) If the consent of one parent is set aside or revoked in
1065 accordance with this chapter, any other consents executed by the
1066 other parent or a third party whose consent is required for the
1067 adoption of the child may not be used by the parent whose
1068 consent was revoked or set aside to terminate or diminish the
1069 rights of the other parent or third party whose consent was
1070 required for the adoption of the child.

1071 Section 14. Subsection (1) and paragraph (a) of subsection
1072 (2) of section 63.085, Florida Statutes, are amended, and
1073 paragraph (c) is added to subsection (2) of that section, to

586-02730-12

20121874c1

1074 read:

1075 63.085 Disclosure by adoption entity.-

1076 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE
1077 PARENTS.—Within 14 days after a person seeking to adopt a minor
1078 or a person seeking to place a minor for adoption contacts an
1079 adoption entity in person or provides the adoption entity with a
1080 mailing address, the entity must provide a written disclosure
1081 statement to that person if the entity agrees or continues to
1082 work with the person. The adoption entity shall also provide the
1083 written disclosure to the parent who did not initiate contact
1084 with the adoption entity within 14 days after that parent is
1085 identified and located. For purposes of providing the written
1086 disclosure, a person is considered to be seeking to place a
1087 minor for adoption if that person has sought information or
1088 advice from the adoption entity regarding the option of adoptive
1089 placement. The written disclosure statement must be in
1090 substantially the following form:

1091

1092 ADOPTION DISCLOSURE

1093 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL
1094 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR
1095 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
1096 ADOPTION UNDER FLORIDA LAW:

1097

1098 1. The name, address, and telephone number of the adoption
1099 entity providing this disclosure is:

1100 Name:

1101 Address:

1102 Telephone Number:

586-02730-12

20121874c1

1103 2. The adoption entity does not provide legal
1104 representation or advice to parents or anyone signing a consent
1105 for adoption or affidavit of nonpaternity, and parents have the
1106 right to consult with an attorney of their own choosing to
1107 advise them.

1108 3. With the exception of an adoption by a stepparent or
1109 relative, a child cannot be placed into a prospective adoptive
1110 home unless the prospective adoptive parents have received a
1111 favorable preliminary home study, including criminal and child
1112 abuse clearances.

1113 4. A valid consent for adoption may not be signed by the
1114 birth mother until 48 hours after the birth of the child, or the
1115 day the birth mother is notified, in writing, that she is fit
1116 for discharge from the licensed hospital or birth center. Any
1117 man may sign a valid consent for adoption at any time after the
1118 birth of the child.

1119 5. A consent for adoption signed before the child attains
1120 the age of 6 months is binding and irrevocable from the moment
1121 it is signed unless it can be proven in court that the consent
1122 was obtained by fraud or duress. A consent for adoption signed
1123 after the child attains the age of 6 months is valid from the
1124 moment it is signed; however, it may be revoked up to 3 business
1125 days after it was signed.

1126 6. A consent for adoption is not valid if the signature of
1127 the person who signed the consent was obtained by fraud or
1128 duress.

1129 7. An unmarried biological father must act immediately in
1130 order to protect his parental rights. Section 63.062, Florida
1131 Statutes, prescribes that any father seeking to establish his

586-02730-12

20121874c1

1132 right to consent to the adoption of his child must file a claim
1133 of paternity with the Florida Putative Father Registry
1134 maintained by the Office of Vital Statistics of the Department
1135 of Health by the date a petition to terminate parental rights is
1136 filed with the court, or within 30 days after receiving service
1137 of a Notice of Intended Adoption Plan. If he receives a Notice
1138 of Intended Adoption Plan, he must file a claim of paternity
1139 with the Florida Putative Father Registry, file a parenting plan
1140 with the court, and provide financial support to the mother or
1141 child within 30 days following service. An unmarried biological
1142 father's failure to timely respond to a Notice of Intended
1143 Adoption Plan constitutes an irrevocable legal waiver of any and
1144 all rights that the father may have to the child. A claim of
1145 paternity registration form for the Florida Putative Father
1146 Registry may be obtained from any local office of the Department
1147 of Health, Office of Vital Statistics, the Department of
1148 Children and Families, the Internet websites for these agencies,
1149 and the offices of the clerks of the Florida circuit courts. The
1150 claim of paternity form must be submitted to the Office of Vital
1151 Statistics, Attention: Adoption Unit, P.O. Box 210,
1152 Jacksonville, FL 32231.

1153 8. There are alternatives to adoption, including foster
1154 care, relative care, and parenting the child. There may be
1155 services and sources of financial assistance in the community
1156 available to parents if they choose to parent the child.

1157 9. A parent has the right to have a witness of his or her
1158 choice, who is unconnected with the adoption entity or the
1159 adoptive parents, to be present and witness the signing of the
1160 consent or affidavit of nonpaternity.

586-02730-12

20121874c1

1161 10. A parent 14 years of age or younger must have a parent,
1162 legal guardian, or court-appointed guardian ad litem to assist
1163 and advise the parent as to the adoption plan and to witness
1164 consent.

1165 11. A parent has a right to receive supportive counseling
1166 from a counselor, social worker, physician, clergy, or attorney.

1167 12. The payment of living or medical expenses by the
1168 prospective adoptive parents before the birth of the child does
1169 not, in any way, obligate the parent to sign the consent for
1170 adoption.

1171
1172 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

1173 (a) At the time that an adoption entity is responsible for
1174 selecting prospective adoptive parents for a born or unborn
1175 child whose parents are seeking to place the child for adoption
1176 or whose rights were terminated pursuant to chapter 39, the
1177 adoption entity must provide the prospective adoptive parents
1178 with information concerning the background of the child to the
1179 extent such information is disclosed to the adoption entity by
1180 the parents, legal custodian, or the department. This subsection
1181 applies only if the adoption entity identifies the prospective
1182 adoptive parents and supervises the ~~physical~~ placement of the
1183 child in the prospective adoptive parents' home. If any
1184 information cannot be disclosed because the records custodian
1185 failed or refused to produce the background information, the
1186 adoption entity has a duty to provide the information if it
1187 becomes available. An individual or entity contacted by an
1188 adoption entity to obtain the background information must
1189 release the requested information to the adoption entity without

586-02730-12

20121874c1

1190 the necessity of a subpoena or a court order. In all cases, the
1191 prospective adoptive parents must receive all available
1192 information by the date of the final hearing on the petition for
1193 adoption. The information to be disclosed includes:

1194 1. A family social and medical history form completed
1195 pursuant to s. 63.162(6).

1196 2. The biological mother's medical records documenting her
1197 prenatal care and the birth and delivery of the child.

1198 3. A complete set of the child's medical records
1199 documenting all medical treatment and care since the child's
1200 birth and before placement.

1201 4. All mental health, psychological, and psychiatric
1202 records, reports, and evaluations concerning the child before
1203 placement.

1204 5. The child's educational records, including all records
1205 concerning any special education needs of the child before
1206 placement.

1207 6. Records documenting all incidents that required the
1208 department to provide services to the child, including all
1209 orders of adjudication of dependency or termination of parental
1210 rights issued pursuant to chapter 39, any case plans drafted to
1211 address the child's needs, all protective services
1212 investigations identifying the child as a victim, and all
1213 guardian ad litem reports filed with the court concerning the
1214 child.

1215 7. Written information concerning the availability of
1216 adoption subsidies for the child, if applicable.

1217 (c) If the prospective adoptive parents waive the receipt
1218 of any of the records described in paragraph (a), a copy of the

586-02730-12

20121874c1

1219 written notification of the waiver to the adoption entity shall
1220 be filed with the court.

1221 Section 15. Subsection (6) of section 63.087, Florida
1222 Statutes, is amended to read:

1223 63.087 Proceeding to terminate parental rights pending
1224 adoption; general provisions.—

1225 (6) ANSWER AND APPEARANCE REQUIRED.—An answer to the
1226 petition or any pleading requiring an answer must be filed in
1227 accordance with the Florida Family Law Rules of Procedure.
1228 Failure to file a written response to the petition constitutes
1229 grounds upon which the court may terminate parental rights.
1230 Failure to personally appear at the hearing constitutes grounds
1231 upon which the court may terminate parental rights. Any person
1232 present at the hearing to terminate parental rights pending
1233 adoption whose consent to adoption is required under s. 63.062
1234 must:

1235 (a) Be advised by the court that he or she has a right to
1236 ask that the hearing be reset for a later date so that the
1237 person may consult with an attorney; and

1238 (b) Be given an opportunity to admit or deny the
1239 allegations in the petition.

1240 Section 16. Subsection (4) of section 63.088, Florida
1241 Statutes, is amended to read:

1242 63.088 Proceeding to terminate parental rights pending
1243 adoption; notice and service; diligent search.—

1244 (4) REQUIRED INQUIRY.—In proceedings initiated under s.
1245 63.087, the court shall conduct an inquiry of the person who is
1246 placing the minor for adoption and of any relative or person
1247 having legal custody of the minor who is present at the hearing

586-02730-12

20121874c1

1248 and likely to have the following information regarding the
1249 identity of:

1250 (a) Any man to whom the mother of the minor was married at
1251 any time when conception of the minor may have occurred or at
1252 the time of the birth of the minor;

1253 (b) Any man who has filed an affidavit of paternity
1254 pursuant to s. 382.013(2)(c) before the date that a petition for
1255 termination of parental rights is filed with the court;

1256 (c) Any man who has adopted the minor;

1257 (d) Any man who has been adjudicated by a court as the
1258 father of the minor child before the date a petition for
1259 termination of parental rights is filed with the court; and

1260 (e) Any man whom the mother identified to the adoption
1261 entity as a potential biological father before the date she
1262 signed the consent for adoption.

1263
1264 The information sought under this subsection may be provided to
1265 the court in the form of a sworn affidavit by a person having
1266 personal knowledge of the facts, addressing each inquiry
1267 enumerated in this subsection, except that, if the inquiry
1268 identifies a father under paragraph (a), paragraph (b), ~~or~~
1269 paragraph (c), or paragraph (d), the inquiry may not continue
1270 further. The inquiry required under this subsection may be
1271 conducted before the birth of the minor.

1272 Section 17. Paragraph (d) of subsection (3), paragraph (b)
1273 of subsection (4), and subsections (5) and (7) of section
1274 63.089, Florida Statutes, are amended to read:

1275 63.089 Proceeding to terminate parental rights pending
1276 adoption; hearing; grounds; dismissal of petition; judgment.-

586-02730-12

20121874c1

1277 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
1278 ADOPTION.—The court may enter a judgment terminating parental
1279 rights pending adoption if the court determines by clear and
1280 convincing evidence, supported by written findings of fact, that
1281 each person whose consent to adoption is required under s.
1282 63.062:

1283 (d) Has been properly served notice of the proceeding in
1284 accordance with the requirements of this chapter and has failed
1285 to file a written answer or personally appear at the evidentiary
1286 hearing resulting in the judgment terminating parental rights
1287 pending adoption;

1288 (4) FINDING OF ABANDONMENT.—A finding of abandonment
1289 resulting in a termination of parental rights must be based upon
1290 clear and convincing evidence that a parent or person having
1291 legal custody has abandoned the child in accordance with the
1292 definition contained in s. 63.032. A finding of abandonment may
1293 also be based upon emotional abuse or a refusal to provide
1294 reasonable financial support, when able, to a birth mother
1295 during her pregnancy.

1296 (b) The child has been abandoned when the parent of a child
1297 is incarcerated on or after October 1, 2001, in a federal,
1298 state, or county correctional institution and:

1299 1. The period of time for which the parent has been or is
1300 expected to be incarcerated will constitute a significant
1301 portion of the child's minority. In determining whether the
1302 period of time is significant, the court shall consider the
1303 child's age and the child's need for a permanent and stable
1304 home. The period of time begins on the date that the parent
1305 enters into incarceration;

586-02730-12

20121874c1

1306 2. The incarcerated parent has been determined by a court
1307 of competent jurisdiction to be a violent career criminal as
1308 defined in s. 775.084, a habitual violent felony offender as
1309 defined in s. 775.084, convicted of child abuse as defined in s.
1310 827.03, or a sexual predator as defined in s. 775.21; has been
1311 convicted of first degree or second degree murder in violation
1312 of s. 782.04 or a sexual battery that constitutes a capital,
1313 life, or first degree felony violation of s. 794.011; or has
1314 been convicted of a substantially similar offense in another
1315 jurisdiction. As used in this section, the term "substantially
1316 similar offense" means any offense that is substantially similar
1317 in elements and penalties to one of those listed in this
1318 subparagraph, and that is in violation of a law of any other
1319 jurisdiction, whether that of another state, the District of
1320 Columbia, the United States or any possession or territory
1321 thereof, or any foreign jurisdiction; or

1322 3. The court determines by clear and convincing evidence
1323 that continuing the parental relationship with the incarcerated
1324 parent would be harmful to the child and, for this reason,
1325 termination of the parental rights of the incarcerated parent is
1326 in the best interests ~~interest~~ of the child.

1327 (5) DISMISSAL OF PETITION.—If the court does not find by
1328 clear and convincing evidence that parental rights of a parent
1329 should be terminated pending adoption, the court must dismiss
1330 the petition and that parent's parental rights that were the
1331 subject of such petition shall remain in full force under the
1332 law. The order must include written findings in support of the
1333 dismissal, including findings as to the criteria in subsection
1334 (4) if rejecting a claim of abandonment.

586-02730-12

20121874c1

1335 (a) Parental rights may not be terminated based upon a
1336 consent that the court finds has been timely revoked ~~withdrawn~~
1337 under s. 63.082 or a consent to adoption or affidavit of
1338 nonpaternity that the court finds was obtained by fraud or
1339 duress.

1340 (b) The court must enter an order based upon written
1341 findings providing for the placement of the minor, but the court
1342 may not proceed to determine custody between competing eligible
1343 parties. The placement of the child should revert to the parent
1344 or guardian who had physical custody of the child at the time of
1345 the placement for adoption unless the court determines upon
1346 clear and convincing evidence that this placement is not in the
1347 best interests of the child or is not an available option for
1348 the child. The court may not change the placement of a child who
1349 has established a bonded relationship with the current caregiver
1350 without providing for a reasonable transition plan consistent
1351 with the best interests of the child. The court may direct the
1352 parties to participate in a reunification or unification plan
1353 with a qualified professional to assist the child in the
1354 transition. The court may order scientific testing to determine
1355 the paternity of the minor only if the court has determined that
1356 the consent of the alleged father would be required, unless all
1357 parties agree that such testing is in the best interests of the
1358 child. The court may not order scientific testing to determine
1359 paternity of an unmarried biological father if the child has a
1360 father as described in s. 63.088(4)(a)-(d) whose rights have not
1361 been previously terminated at any time during which the court
1362 has jurisdiction over the minor. Further proceedings, if any,
1363 regarding the minor must be brought in a separate custody action

586-02730-12

20121874c1

1364 under chapter 61, a dependency action under chapter 39, or a
1365 paternity action under chapter 742.

1366 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

1367 (a) A motion for relief from a judgment terminating
1368 parental rights must be filed with the court originally entering
1369 the judgment. The motion must be filed within a reasonable time,
1370 but not later than 1 year after the entry of the judgment. An
1371 unmarried biological father does not have standing to seek
1372 relief from a judgment terminating parental rights if the mother
1373 did not identify him to the adoption entity before the date she
1374 signed a consent for adoption or if he was not located because
1375 the mother failed or refused to provide sufficient information
1376 to locate him.

1377 (b) No later than 30 days after the filing of a motion
1378 under this subsection, the court must conduct a preliminary
1379 hearing to determine what contact, if any, shall be permitted
1380 between a parent and the child pending resolution of the motion.
1381 Such contact shall be considered only if it is requested by a
1382 parent who has appeared at the hearing and may not be awarded
1383 unless the parent previously established a bonded relationship
1384 with the child and the parent has pled a legitimate legal basis
1385 and established a prima facie case for setting aside the
1386 judgment terminating parental rights. If the court orders
1387 contact between a parent and child, the order must be issued in
1388 writing as expeditiously as possible and must state with
1389 specificity any provisions regarding contact with persons other
1390 than those with whom the child resides.

1391 (c) At the preliminary hearing, the court, upon the motion
1392 of any party or upon its own motion, may order scientific

586-02730-12

20121874c1

1393 testing to determine the paternity of the minor if the person
1394 seeking to set aside the judgment is alleging to be the child's
1395 father and that fact has not previously been determined by
1396 legitimacy or scientific testing. The court may order visitation
1397 with a person for whom scientific testing for paternity has been
1398 ordered and who has previously established a bonded relationship
1399 with the child.

1400 (d) Unless otherwise agreed between the parties or for good
1401 cause shown, the court shall conduct a final hearing on the
1402 motion for relief from judgment within 45 days after the filing
1403 and enter its written order as expeditiously as possible
1404 thereafter.

1405 (e) If the court grants relief from the judgment
1406 terminating parental rights and no new pleading is filed to
1407 terminate parental rights, the placement of the child should
1408 revert to the parent or guardian who had physical custody of the
1409 child at the time of the original placement for adoption unless
1410 the court determines upon clear and convincing evidence that
1411 this placement is not in the best interests of the child or is
1412 not an available option for the child. The court may not change
1413 the placement of a child who has established a bonded
1414 relationship with the current caregiver without providing for a
1415 reasonable transition plan consistent with the best interests of
1416 the child. The court may direct the parties to participate in a
1417 reunification or unification plan with a qualified professional
1418 to assist the child in the transition. The court may not direct
1419 the placement of a child with a person other than the adoptive
1420 parents without first obtaining a favorable home study of that
1421 person and any other persons residing in the proposed home and

586-02730-12

20121874c1

1422 shall take whatever additional steps are necessary and
1423 appropriate for the physical and emotional protection of the
1424 child.

1425 Section 18. Subsection (3) of section 63.092, Florida
1426 Statutes, is amended to read:

1427 63.092 Report to the court of intended placement by an
1428 adoption entity; at-risk placement; preliminary study.—

1429 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the
1430 intended adoptive home, a preliminary home study must be
1431 performed by a licensed child-placing agency, a child-caring
1432 agency registered under s. 409.176, a licensed professional, or
1433 agency described in s. 61.20(2), unless the adoptee is an adult
1434 or the petitioner is a stepparent or a relative. If the adoptee
1435 is an adult or the petitioner is a stepparent or a relative, a
1436 preliminary home study may be required by the court for good
1437 cause shown. The department is required to perform the
1438 preliminary home study only if there is no licensed child-
1439 placing agency, child-caring agency registered under s. 409.176,
1440 licensed professional, or agency described in s. 61.20(2), in
1441 the county where the prospective adoptive parents reside. The
1442 preliminary home study must be made to determine the suitability
1443 of the intended adoptive parents and may be completed prior to
1444 identification of a prospective adoptive minor. A favorable
1445 preliminary home study is valid for 1 year after the date of its
1446 completion. Upon its completion, a signed copy of the home study
1447 must be provided to the intended adoptive parents who were the
1448 subject of the home study. A minor may not be placed in an
1449 intended adoptive home before a favorable preliminary home study
1450 is completed unless the adoptive home is also a licensed foster

586-02730-12

20121874c1

1451 home under s. 409.175. The preliminary home study must include,
1452 at a minimum:

- 1453 (a) An interview with the intended adoptive parents;
1454 (b) Records checks of the department's central abuse
1455 registry and criminal records correspondence checks under s.
1456 39.0138 through the Department of Law Enforcement on the
1457 intended adoptive parents;
1458 (c) An assessment of the physical environment of the home;
1459 (d) A determination of the financial security of the
1460 intended adoptive parents;
1461 (e) Documentation of counseling and education of the
1462 intended adoptive parents on adoptive parenting;
1463 (f) Documentation that information on adoption and the
1464 adoption process has been provided to the intended adoptive
1465 parents;
1466 (g) Documentation that information on support services
1467 available in the community has been provided to the intended
1468 adoptive parents; and
1469 (h) A copy of each signed acknowledgment of receipt of
1470 disclosure required by s. 63.085.

1471
1472 If the preliminary home study is favorable, a minor may be
1473 placed in the home pending entry of the judgment of adoption. A
1474 minor may not be placed in the home if the preliminary home
1475 study is unfavorable. If the preliminary home study is
1476 unfavorable, the adoption entity may, within 20 days after
1477 receipt of a copy of the written recommendation, petition the
1478 court to determine the suitability of the intended adoptive
1479 home. A determination as to suitability under this subsection

586-02730-12

20121874c1

1480 does not act as a presumption of suitability at the final
1481 hearing. In determining the suitability of the intended adoptive
1482 home, the court must consider the totality of the circumstances
1483 in the home. ~~A No~~ minor may not be placed in a home in which
1484 there resides any person determined by the court to be a sexual
1485 predator as defined in s. 775.21 or to have been convicted of an
1486 offense listed in s. 63.089(4)(b)2.

1487 Section 19. Subsection (7) is added to section 63.097,
1488 Florida Statutes, to read:

1489 63.097 Fees.—

1490 (7) In determining reasonable attorney fees, courts shall
1491 use the following criteria:

1492 (a) The time and labor required, the novelty and difficulty
1493 of the question involved, and the skill requisite to perform the
1494 legal service properly.

1495 (b) The likelihood, if apparent to the client, that the
1496 acceptance of the particular employment will preclude other
1497 employment by the attorney.

1498 (c) The fee customarily charged in the locality for similar
1499 legal services.

1500 (d) The amount involved in the subject matter of the
1501 representation, the responsibility involved in the
1502 representation, and the results obtained.

1503 (e) The time limitations imposed by the client or by the
1504 circumstances and, as between attorney and client, any
1505 additional or special time demands or requests of the attorney
1506 by the client.

1507 (f) The nature and length of the professional relationship
1508 with the client.

586-02730-12

20121874c1

1509 (g) The experience, reputation, diligence, and ability of
1510 the attorney or attorneys performing the service and the skill,
1511 expertise, or efficiency of effort reflected in the actual
1512 providing of such services.

1513 (h) Whether the fee is fixed or contingent.

1514 Section 20. Section 63.152, Florida Statutes, is amended to
1515 read:

1516 63.152 Application for new birth record.—Within 30 days
1517 after entry of a judgment of adoption, the clerk of the court or
1518 the adoption entity shall transmit a certified statement of the
1519 entry to the state registrar of vital statistics on a form
1520 provided by the registrar. A new birth record containing the
1521 necessary information supplied by the certificate shall be
1522 issued by the registrar on application of the adopting parents
1523 or the adopted person.

1524 Section 21. Subsection (7) of section 63.162, Florida
1525 Statutes, is amended to read:

1526 63.162 Hearings and records in adoption proceedings;
1527 confidential nature.—

1528 (7) The court may, upon petition of an adult adoptee or
1529 birth parent, for good cause shown, appoint an intermediary or a
1530 licensed child-placing agency to contact a birth parent or adult
1531 adoptee, as applicable, who has not registered with the adoption
1532 registry pursuant to s. 63.165 and advise both ~~them~~ of the
1533 availability of the intermediary or agency and that the birth
1534 parent or adult adoptee, as applicable, wishes to establish
1535 contact ~~same~~.

1536 Section 22. Paragraph (c) of subsection (2) of section
1537 63.167, Florida Statutes, is amended to read:

586-02730-12

20121874c1

1538 63.167 State adoption information center.—

1539 (2) The functions of the state adoption information center
1540 shall include:

1541 (c) Operating a toll-free telephone number to provide
1542 information and referral services. The state adoption
1543 information center shall provide contact information for all
1544 adoption entities in the caller's county or, if no adoption
1545 entities are located in the caller's county, the number of the
1546 nearest adoption entity when contacted for a referral to make an
1547 adoption plan and shall rotate the order in which the names of
1548 adoption entities are provided to callers.

1549 Section 23. Paragraph (g) of subsection (1) and subsections
1550 (2) and (8) of section 63.212, Florida Statutes, are amended to
1551 read:

1552 63.212 Prohibited acts; penalties for violation.—

1553 (1) It is unlawful for any person:

1554 (g) Except an adoption entity, to advertise or offer to the
1555 public, in any way, by any medium whatever that a minor is
1556 available for adoption or that a minor is sought for adoption;
1557 and, further, it is unlawful for any person to publish or
1558 broadcast any such advertisement or assist an unlicensed person
1559 or entity in publishing or broadcasting any such advertisement
1560 without including a Florida license number of the agency or
1561 attorney placing the advertisement.

1562 1. Only a person who is an attorney licensed to practice
1563 law in this state or an adoption entity licensed under the laws
1564 of this state may place a paid advertisement or paid listing of
1565 the person's telephone number, on the person's own behalf, in a
1566 telephone directory that:

586-02730-12

20121874c1

- 1567 a. A child is offered or wanted for adoption; or
1568 b. The person is able to place, locate, or receive a child
1569 for adoption.
- 1570 2. A person who publishes a telephone directory that is
1571 distributed in this state:
- 1572 a. Shall include, at the beginning of any classified
1573 heading for adoption and adoption services, a statement that
1574 informs directory users that only attorneys licensed to practice
1575 law in this state and licensed adoption entities may legally
1576 provide adoption services under state law.
- 1577 b. May publish an advertisement described in subparagraph
1578 1. in the telephone directory only if the advertisement contains
1579 the following:
- 1580 (I) For an attorney licensed to practice law in this state,
1581 the person's Florida Bar number.
- 1582 (II) For a child placing agency licensed under the laws of
1583 this state, the number on the person's adoption entity license.
- 1584 (2) Any person who is a birth mother, or a woman who holds
1585 herself out to be a birth mother, who is interested in making an
1586 adoption plan and who knowingly or intentionally benefits from
1587 the payment of adoption-related expenses in connection with that
1588 adoption plan commits adoption deception if:
- 1589 (a) The person knows or should have known that the person
1590 is not pregnant at the time the sums were requested or received;
- 1591 (b) The person accepts living expenses assistance from a
1592 prospective adoptive parent or adoption entity without
1593 disclosing that she is receiving living expenses assistance from
1594 another prospective adoptive parent or adoption entity at the
1595 same time in an effort to adopt the same child; or

586-02730-12

20121874c1

1596 (c) The person knowingly makes false representations to
1597 induce the payment of living expenses and does not intend to
1598 make an adoptive placement. It is unlawful for:

1599 ~~(a) Any person or adoption entity under this chapter to:~~

1600 ~~1. Knowingly provide false information; or~~

1601 ~~2. Knowingly withhold material information.~~

1602 ~~(b) A parent, with the intent to defraud, to accept~~
1603 ~~benefits related to the same pregnancy from more than one~~
1604 ~~adoption entity without disclosing that fact to each entity.~~

1605
1606 Any person who willfully commits adoption deception ~~violates any~~
1607 ~~provision of this subsection~~ commits a misdemeanor of the second
1608 degree, punishable as provided in s. 775.082 or s. 775.083, if
1609 the sums received by the birth mother or woman holding herself
1610 out to be a birth mother do not exceed \$300, and a felony of the
1611 third degree, punishable as provided in s. 775.082, s. 775.083,
1612 or s. 775.084, if the sums received by the birth mother or woman
1613 holding herself out to be a birth mother exceed \$300. In
1614 addition, the person is liable for damages caused by such acts
1615 or omissions, including reasonable attorney ~~attorney's~~ fees and
1616 costs incurred by the adoption entity or the prospective
1617 adoptive parent. Damages may be awarded through restitution in
1618 any related criminal prosecution or by filing a separate civil
1619 action.

1620 (8) Unless otherwise indicated, a person who willfully and
1621 with criminal intent violates any provision of this section,
1622 excluding paragraph (1)(g), commits a felony of the third
1623 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1624 775.084. A person who willfully and with criminal intent

586-02730-12

20121874c1

1625 violates paragraph (1)(g) commits a misdemeanor of the second
1626 degree, punishable as provided in s. 775.083; and each day of
1627 continuing violation shall be considered a separate offense. In
1628 addition, any person who knowingly publishes or assists with the
1629 publication of any advertisement or other publication which
1630 violates the requirements of paragraph (1)(g) commits a
1631 misdemeanor of the second degree, punishable as provided in s.
1632 775.083, and may be required to pay a fine of up to \$150 per day
1633 for each day of continuing violation.

1634 Section 24. Paragraph (b) of subsection (1), paragraphs (a)
1635 and (e) of subsection (2), and paragraphs (b), (h), and (i) of
1636 subsection (6) of section 63.213, Florida Statutes, are amended
1637 to read:

1638 63.213 Preplanned adoption agreement.—

1639 (1) Individuals may enter into a preplanned adoption
1640 arrangement as specified in this section, but such arrangement
1641 may not in any way:

1642 (b) Constitute consent of a mother to place her biological
1643 child for adoption until 48 hours after the following birth of
1644 the child and unless the court making the custody determination
1645 or approving the adoption determines that the mother was aware
1646 of her right to rescind within the 48-hour period after the
1647 following birth of the child but chose not to rescind such
1648 consent. The volunteer mother's right to rescind her consent in
1649 a preplanned adoption applies only when the child is genetically
1650 related to her.

1651 (2) A preplanned adoption agreement must include, but need
1652 not be limited to, the following terms:

1653 (a) That the volunteer mother agrees to become pregnant by

586-02730-12

20121874c1

1654 the fertility technique specified in the agreement, to bear the
1655 child, and to terminate any parental rights and responsibilities
1656 to the child she might have through a written consent executed
1657 at the same time as the preplanned adoption agreement, subject
1658 to a right of rescission by the volunteer mother any time within
1659 48 hours after the birth of the child, if the volunteer mother
1660 is genetically related to the child.

1661 (e) That the intended father and intended mother
1662 acknowledge that they may not receive custody or the parental
1663 rights under the agreement if the volunteer mother terminates
1664 the agreement or if the volunteer mother rescinds her consent to
1665 place her child for adoption within 48 hours after the birth of
1666 the child, if the volunteer mother is genetically related to the
1667 child.

1668 (6) As used in this section, the term:

1669 (b) "Child" means the child or children conceived by means
1670 of a fertility technique ~~an insemination~~ that is part of a
1671 preplanned adoption arrangement.

1672 (h) "Preplanned adoption arrangement" means the arrangement
1673 through which the parties enter into an agreement for the
1674 volunteer mother to bear the child, for payment by the intended
1675 father and intended mother of the expenses allowed by this
1676 section, for the intended father and intended mother to assert
1677 full parental rights and responsibilities to the child if
1678 consent to adoption is not rescinded after birth by a ~~the~~
1679 volunteer mother who is genetically related to the child, and
1680 for the volunteer mother to terminate, subject to any ~~a~~ right of
1681 rescission, all her parental rights and responsibilities to the
1682 child in favor of the intended father and intended mother.

586-02730-12

20121874c1

1683 (i) "Volunteer mother" means a female at least 18 years of
1684 age who voluntarily agrees, subject to a right of rescission if
1685 it is her biological child, that if she should become pregnant
1686 pursuant to a preplanned adoption arrangement, she will
1687 terminate her parental rights and responsibilities to the child
1688 in favor of the intended father and intended mother.

1689 Section 25. Section 63.222, Florida Statutes, is amended to
1690 read:

1691 63.222 Effect on prior adoption proceedings.—Any adoption
1692 made before July 1, 2012, ~~is the effective date of this act~~
1693 ~~shall be valid~~, and any proceedings pending on that the
1694 effective date and any subsequent amendments thereto ~~of this act~~
1695 are not affected thereby unless the amendment is designated as a
1696 remedial provision.

1697 Section 26. Section 63.2325, Florida Statutes, is amended
1698 to read:

1699 63.2325 Conditions for invalidation ~~revocation~~ of a consent
1700 to adoption or affidavit of nonpaternity.—Notwithstanding the
1701 requirements of this chapter, a failure to meet any of those
1702 requirements does not constitute grounds for invalidation
1703 ~~revocation~~ of a consent to adoption or revocation ~~withdrawal~~ of
1704 an affidavit of nonpaternity unless the extent and circumstances
1705 of such a failure result in a material failure of fundamental
1706 fairness in the administration of due process, or the failure
1707 constitutes or contributes to fraud or duress in obtaining a
1708 consent to adoption or affidavit of nonpaternity.

1709 Section 27. This act shall take effect July 1, 2012.