

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

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25 requirement is not superseded; requiring that if the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

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30 instruction to contact an adoption entity and may not
31 take custody of the infant; providing an exception;
32 revising provisions relating to scientific testing to
33 determine the paternity or maternity of a minor;
34 amending s. 63.0425, F.S.; requiring that a child's
35 residence be continuous for a specified period in
36 order to entitle the grandparent to notice of certain
37 proceedings; amending s. 63.0427, F.S.; prohibiting a
38 court from increasing contact between an adopted child
39 and siblings, birth parents, or other relatives
40 without the consent of the adoptive parent or parents;
41 amending s. 63.052, F.S.; deleting a requirement that
42 a minor be permanently committed to an adoption entity
43 in order for the entity to be guardian of the person
44 of the minor; limiting the circumstances in which an
45 intermediary may remove a child; providing that an
46 intermediary does not become responsible for a minor
47 child's medical bills that were incurred before taking
48 physical custody of the child; providing additional
49 placement options for a minor surrendered to an
50 adoption entity for subsequent adoption when a
51 suitable prospective adoptive home is not available;
52 amending s. 63.053, F.S.; requiring that an unmarried
53 biological father strictly comply with specified
54 provisions in order to protect his interests; amending
55 s. 63.054, F.S.; authorizing submission of an
56 alternative document to the Office of Vital Statistics
57 by the petitioner in each proceeding for termination
58 of parental rights; providing that by filing a claim

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

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

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

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

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175 effective date of the provisions; amending s. 63.2325,
176 F.S.; revising terminology relating to revocation of
177 consent to adoption; creating s. 753.06, F.S.;
178 adopting state standards for supervised visitation
179 programs; requiring each program to annually affirm
180 compliance with the standards to the court; providing
181 that after a specified date, only those programs that
182 adhere to the state standards may receive state
183 funding; creating s. 753.07, F.S.; providing factors
184 for the court or child-placing agency to consider when
185 referring cases for supervised visitation or exchange
186 monitoring; specifying training requirements for
187 persons providing such services; authorizing
188 supervised visitation programs to alert the court to
189 problems with referred cases; creating s. 753.08,
190 F.S.; requiring supervised visitation programs to
191 conduct security background checks of employees and
192 volunteers; providing requirements for such checks;
193 requiring that an employer furnish a copy of the
194 personnel record for the employee or former employee
195 upon request; providing immunity to employers who
196 provide information for purposes of a background
197 check; requiring that all applicants hired or
198 certified by a program after a specified date undergo
199 a level 2 background screening; delegating
200 responsibility for screening criminal history
201 information and for costs; authorizing a supervised
202 visitation program to participate in the Volunteer and
203 Employee Criminal History System in order to obtain

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204 criminal history information; providing that certain
205 persons providing services at a supervised visitation
206 program are presumed to act in good faith; providing
207 that such persons acting in good faith are immune from
208 civil and criminal liability; providing an effective
209 date.

210

211 Be It Enacted by the Legislature of the State of Florida:

212

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

215 39.802 Petition for termination of parental rights; filing;
216 elements.—

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

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

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

227 (c) That the manifest best interests of the child, in
228 accordance with s. 39.810, would be served by the granting of
229 the petition.

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

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233 Section 2. Paragraphs (e) through (m) of subsection (4) of
234 section 63.022, Florida Statutes, are redesignated as paragraphs
235 (d) through (l), respectively, and subsection (2) and present
236 paragraph (d) of subsection (4) of that section are amended to
237 read:

238 63.022 Legislative intent.—

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

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

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

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

251 63.032 Definitions.—As used in this chapter, the term:

252 (1) "Abandoned" means a situation in which the parent or
253 person having legal custody of a child, while being able, makes
254 little or no provision for the child's support and makes little
255 or no effort to communicate with the child, which situation is
256 sufficient to evince an intent to reject parental
257 responsibilities. If, in the opinion of the court, the efforts
258 of such parent or person having legal custody of the child to
259 support and communicate with the child are only marginal efforts
260 that do not evince a settled purpose to assume all parental
261 duties, the court may declare the child to be abandoned. In

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262 making this decision, the court may consider the conduct of a
263 father towards the child's mother during her pregnancy.

264 (3) "Adoption entity" means the department, ~~an agency,~~ a
265 child-caring agency registered under s. 409.176, an
266 intermediary, a Florida-licensed child-placing agency, or a
267 child-placing agency licensed in another state which is
268 qualified by the department to place children in the State of
269 Florida.

270 (12) "Parent" means a woman who gives birth to a child and
271 who is not a gestational surrogate as defined in s. 742.13 or a
272 man whose consent to the adoption of the child would be required
273 under s. 63.062(1). If a child has been legally adopted, the
274 term "parent" means the adoptive mother or father of the child.
275 The term does not include an individual whose parental
276 relationship to the child has been legally terminated or an
277 alleged or prospective parent.

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

281 (19) "Unmarried biological father" means the child's
282 biological father who is not married to the child's mother at
283 the time of conception or on the date of the birth of the child
284 and who, before the filing of a petition to terminate parental
285 rights, has not been adjudicated by a court of competent
286 jurisdiction to be the legal father of the child or has not
287 filed ~~executed~~ an affidavit pursuant to s. 382.013(2)(c).

288 Section 4. Section 63.037, Florida Statutes, is amended to
289 read:

290 63.037 Proceedings applicable to cases resulting from a

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291 termination of parental rights under chapter 39.—A case in which
292 a minor becomes available for adoption after the parental rights
293 of each parent have been terminated by a judgment entered
294 pursuant to chapter 39 shall be governed by s. 39.812 and this
295 chapter. Adoption proceedings initiated under chapter 39 are
296 exempt from the following provisions of this chapter: the search
297 of the Florida Putative Father Registry required in s.
298 63.054(7), if a search was previously completed and
299 documentation of the search is contained in the case file;
300 disclosure requirements for the adoption entity provided in s.
301 63.085(1); general provisions governing termination of parental
302 rights pending adoption provided in s. 63.087; notice and
303 service provisions governing termination of parental rights
304 pending adoption provided in s. 63.088; and procedures for
305 terminating parental rights pending adoption provided in s.
306 63.089.

307 Section 5. Subsections (2) through (4) of section 63.039,
308 Florida Statutes, are renumbered as subsections (3) through (5),
309 respectively, and a new subsection (2) is added to that section
310 to read:

311 63.039 Duty of adoption entity to prospective adoptive
312 parents; sanctions.—

313 (2) With the exception of an adoption by a relative or
314 stepparent, all adoptions of minor children require the use of
315 an adoption entity that will assume the responsibilities
316 provided in this section.

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

319 63.0423 Procedures with respect to surrendered infants.—

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

335 (4) The parent who surrenders the infant in accordance with
336 s. 383.50 is presumed to have consented to termination of
337 parental rights, and express consent is not required. Except
338 when there is actual or suspected child abuse or neglect, the
339 licensed child-placing agency shall not attempt to pursue,
340 search for, or notify that parent as provided in s. 63.088 and
341 chapter 49. For purposes of s. 383.50 and this section, an
342 infant who tests positive for illegal drugs, narcotic
343 prescription drugs, alcohol, or other substances, but who shows
344 no other signs of child abuse or neglect, shall be placed in the
345 custody of a licensed child-placing agency. This provision does
346 not eliminate the reporting requirement under s. 383.50(7). When
347 the department is contacted regarding an infant properly
348 surrendered under this section and s. 383.50, the department

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349 shall provide instruction to contact a licensed child-placing
350 agency and may not take custody of the infant unless reasonable
351 efforts to contact a licensed child-placing agency to accept the
352 infant have not been successful.

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

358 (a) The court may order scientific testing to determine
359 maternity or paternity at the expense of the parent claiming
360 parental rights.

361 (b) The court shall appoint a guardian ad litem for the
362 surrendered infant and order whatever investigation, home
363 evaluation, and psychological evaluation are necessary to
364 determine what is in the best interests ~~interest~~ of the
365 surrendered infant.

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

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

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

377 (9) (a) A judgment terminating parental rights pending

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378 adoption is voidable, and any later judgment of adoption of that
379 minor is voidable, if, upon the motion of a ~~birth~~ parent, the
380 court finds that a person knowingly gave false information that
381 prevented the ~~birth~~ parent from timely making known his or her
382 desire to assume parental responsibilities toward the minor or
383 from exercising his or her parental rights. A motion under this
384 subsection must be filed with the court originally entering the
385 judgment. The motion must be filed within a reasonable time but
386 not later than 1 year after the entry of the judgment
387 terminating parental rights.

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

399 (c) ~~At the preliminary hearing, The court, upon the motion~~
400 ~~of any party or upon its own motion, may not order scientific~~
401 ~~testing to determine the paternity or maternity of the minor~~
402 ~~until such time as the court determines that a previously~~
403 ~~entered judgment terminating the parental rights of that parent~~
404 ~~is voidable pursuant to paragraph (a), unless all parties agree~~
405 ~~that such testing is in the best interests of the child if the~~
406 ~~person seeking to set aside the judgment is alleging to be the~~

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407 ~~child's birth parent but has not previously been determined by~~
408 ~~legal proceedings or scientific testing to be the birth parent.~~

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

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

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

419 63.0425 Grandparent's right to notice.—

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

425 Section 8. Section 63.0427, Florida Statutes, is amended to
426 read:

427 63.0427 Agreements for ~~Adopted minor's right to~~ continued
428 communication or contact between adopted child and ~~with~~
429 siblings, parents, and other relatives.—

430 (1) A child whose parents have had their parental rights
431 terminated and whose custody has been awarded to the department
432 pursuant to s. 39.811, and who is the subject of a petition for
433 adoption under this chapter, shall have the right to have the
434 court consider the appropriateness of postadoption communication
435 or contact, including, but not limited to, visits, written

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436 correspondence, or telephone calls, with his or her siblings or,
437 upon agreement of the adoptive parents, with the parents who
438 have had their parental rights terminated or other specified
439 biological relatives. The court shall consider the following in
440 making such determination:

- 441 (a) Any orders of the court pursuant to s. 39.811(7).
442 (b) Recommendations of the department, the foster parents
443 if other than the adoptive parents, and the guardian ad litem.
444 (c) Statements of the prospective adoptive parents.
445 (d) Any other information deemed relevant and material by
446 the court.

447

448 If the court determines that the child's best interests will be
449 served by postadoption communication or contact, the court shall
450 so order, stating the nature and frequency of ~~for~~ the
451 communication or contact. This order shall be made a part of the
452 final adoption order, but ~~in no event shall~~ the continuing
453 validity of the adoption may not be contingent upon such
454 postadoption communication or contact and, ~~nor shall~~ the ability
455 of the adoptive parents and child to change residence within or
456 outside the State of Florida may not be impaired by such
457 communication or contact.

458 (2) Notwithstanding ~~the provisions of~~ s. 63.162, the
459 adoptive parent may, at any time, petition for review of a
460 communication or contact order entered pursuant to subsection
461 (1), if the adoptive parent believes that the best interests of
462 the adopted child are being compromised, and the court may ~~shall~~
463 ~~have authority to~~ order the communication or contact to be
464 terminated or modified, as the court deems to be in the best

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465 interests of the adopted child; however, the court may not
466 increase contact between the adopted child and siblings, birth
467 parents, or other relatives without the consent of the adoptive
468 parent or parents. As part of the review process, the court may
469 order the parties to engage in mediation. The department shall
470 not be required to be a party to such review.

471 Section 9. Subsections (1), (2), (3), and (6) of section
472 63.052, Florida Statutes, are amended to read:

473 63.052 Guardians designated; proof of commitment.—

474 (1) For minors who have been placed for adoption with ~~and~~
475 ~~permanently committed to~~ an adoption entity, other than an
476 intermediary, such adoption entity shall be the guardian of the
477 person of the minor and has the responsibility and authority to
478 provide for the needs and welfare of the minor.

479 (2) For minors who have been voluntarily surrendered to an
480 intermediary through an execution of a consent to adoption, the
481 intermediary shall be responsible for the minor until the time a
482 court orders preliminary approval of placement of the minor in
483 the prospective adoptive home, after which time the prospective
484 adoptive parents shall become guardians pending finalization of
485 adoption, subject to the intermediary's right and responsibility
486 to remove the child from the prospective adoptive home if the
487 removal is deemed by the intermediary to be in the best
488 interests ~~interest~~ of the child. The intermediary may not remove
489 the child without a court order unless the child is in danger of
490 imminent harm. After the execution of adoption consents, the
491 intermediary is not responsible for the minor child's medical
492 bills that were incurred before taking physical custody of the
493 child. Before ~~Prior to~~ the court's entry of an order granting

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494 preliminary approval of the placement, the intermediary shall
495 have the responsibility and authority to provide for the needs
496 and welfare of the minor. A ~~No~~ minor may not shall be placed in
497 a prospective adoptive home until that home has received a
498 favorable preliminary home study, as provided in s. 63.092,
499 completed and approved within 1 year before such placement in
500 the prospective home. The provisions of s. 627.6578 shall remain
501 in effect notwithstanding the guardianship provisions in this
502 section.

503 (3) If a minor is surrendered to an adoption entity for
504 subsequent adoption and a suitable prospective adoptive home is
505 not available pursuant to s. 63.092 at the time the minor is
506 surrendered to the adoption entity, the minor must be placed in
507 a licensed foster care home, or with a person or family that has
508 received a favorable preliminary home study pursuant to
509 subsection (2), or with a relative until such a suitable
510 prospective adoptive home is available.

511 (6) Unless otherwise authorized by law or ordered by the
512 court, the department is not responsible for expenses incurred
513 by other adoption entities participating in a placement of a
514 minor.

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

517 63.053 Rights and responsibilities of an unmarried
518 biological father; legislative findings.—

519 (2) The Legislature finds that the interests of the state,
520 the mother, the child, and the adoptive parents described in
521 this chapter outweigh the interest of an unmarried biological
522 father who does not take action in a timely manner to establish

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523 and demonstrate a relationship with his child in accordance with
524 the requirements of this chapter. An unmarried biological father
525 has the primary responsibility to protect his rights and is
526 presumed to know that his child may be adopted without his
527 consent unless he strictly complies with ~~the provisions of~~ this
528 chapter and demonstrates a prompt and full commitment to his
529 parental responsibilities.

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

532 Section 11. Subsections (1), (2), (4), and (13) of section
533 63.054, Florida Statutes, are amended to read:

534 63.054 Actions required by an unmarried biological father
535 to establish parental rights; Florida Putative Father Registry.—

536 (1) In order to preserve the right to notice and consent to
537 an adoption under this chapter, an unmarried biological father
538 must, as the "registrant," file a notarized claim of paternity
539 form with the Florida Putative Father Registry maintained by the
540 Office of Vital Statistics of the Department of Health which
541 includes confirmation of his willingness and intent to support
542 the child for whom paternity is claimed in accordance with state
543 law. The claim of paternity may be filed at any time before the
544 child's birth, but may not be filed after the date a petition is
545 filed for termination of parental rights. In each proceeding for
546 termination of parental rights, the petitioner must submit to
547 the Office of Vital Statistics a copy of the petition for
548 termination of parental rights or a document executed by the
549 clerk of the court showing the style of the case, the names of
550 the persons whose rights are sought to be terminated, and the
551 date and time of the filing of the petition. The Office of Vital

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552 Statistics may not record a claim of paternity after the date a
553 petition for termination of parental rights is filed. The
554 failure of an unmarried biological father to file a claim of
555 paternity with the registry before the date a petition for
556 termination of parental rights is filed also bars him from
557 filing a paternity claim under chapter 742.

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

561 1. The mother identifies him to the adoption entity as a
562 potential biological father by the date she executes a consent
563 for adoption; and

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

568 (b) If an unmarried biological father falls within the
569 exception provided by paragraph (a), the petitioner shall also
570 submit to the Office of Vital Statistics a copy of the notice of
571 intended adoption plan and proof of service of the notice on the
572 potential biological father.

573 (c) An unmarried biological father who falls within the
574 exception provided by paragraph (a) may not file a claim of
575 paternity with the registry or a paternity claim under chapter
576 742 after the 30-day mandatory response date to the notice of
577 intended adoption plan has expired. The Office of Vital
578 Statistics may not record a claim of paternity 30 days after
579 service of the notice of intended adoption plan.

580 (2) By filing a claim of paternity form with the Office of

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581 Vital Statistics, the registrant expressly consents to submit to
582 and pay for DNA testing upon the request of any party, the
583 registrant, or the adoption entity with respect to the child
584 referenced in the claim of paternity.

585 (4) Upon initial registration, or at any time thereafter,
586 the registrant may designate a physical ~~an~~ address other than
587 his residential address for sending any communication regarding
588 his registration. Similarly, upon initial registration, or at
589 any time thereafter, the registrant may designate, in writing,
590 an agent or representative to receive any communication on his
591 behalf and receive service of process. The agent or
592 representative must file an acceptance of the designation, in
593 writing, in order to receive notice or service of process. The
594 failure of the designated representative or agent of the
595 registrant to deliver or otherwise notify the registrant of
596 receipt of correspondence from the Florida Putative Father
597 Registry is at the registrant's own risk and does ~~shall~~ not
598 serve as a valid defense based upon lack of notice.

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

605 Section 12. Paragraph (b) of subsection (1), subsections
606 (2), (3), and (4), and paragraph (a) of subsection (8) of
607 section 63.062, Florida Statutes, are amended to read:

608 63.062 Persons required to consent to adoption; affidavit
609 of nonpaternity; waiver of venue.-

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

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

616 1. The minor was conceived or born while the father was
617 married to the mother;

618 2. The minor is his child by adoption;

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

622 4. He has filed an affidavit of paternity pursuant to s.
623 382.013(2)(c) or he is listed on the child's birth certificate
624 before ~~by~~ the date a petition ~~is filed~~ for termination of
625 parental rights is filed; or

626 5. In the case of an unmarried biological father, he has
627 acknowledged in writing, signed in the presence of a competent
628 witness, that he is the father of the minor, has filed such
629 acknowledgment with the Office of Vital Statistics of the
630 Department of Health within the required timeframes, and has
631 complied with the requirements of subsection (2).

632
633 The status of the father shall be determined at the time of the
634 filing of the petition to terminate parental rights and may not
635 be modified, except as otherwise provided in s. 63.0423(9)(a),
636 for purposes of his obligations and rights under this chapter by
637 acts occurring after the filing of the petition to terminate
638 parental rights.

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639 (2) In accordance with subsection (1), the consent of an
640 unmarried biological father shall be necessary only if the
641 unmarried biological father has complied with the requirements
642 of this subsection.

643 (a)1. With regard to a child who is placed with adoptive
644 parents more than 6 months after the child's birth, an unmarried
645 biological father must have developed a substantial relationship
646 with the child, taken some measure of responsibility for the
647 child and the child's future, and demonstrated a full commitment
648 to the responsibilities of parenthood by providing reasonable
649 and regular financial support to the child in accordance with
650 the unmarried biological father's ability, if not prevented from
651 doing so by the person or authorized adoption entity ~~agency~~
652 having lawful custody of the child, and either:

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

657 b. Maintained regular communication with the child or with
658 the person or agency having the care or custody of the child,
659 when physically or financially unable to visit the child or when
660 not prevented from doing so by the birth mother or person or
661 authorized agency having lawful custody of the child.

662 ~~2. The mere fact that an unmarried biological father~~
663 ~~expresses a desire to fulfill his responsibilities towards his~~
664 ~~child which is unsupported by acts evidencing this intent does~~
665 ~~not preclude a finding by the court that the unmarried~~
666 ~~biological father failed to comply with the requirements of this~~
667 ~~subsection.~~

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668 ~~2.3.~~ An unmarried biological father who openly lived with
669 the child for at least 6 months within the 1-year period
670 following the birth of the child and immediately preceding
671 placement of the child with adoptive parents and who openly held
672 himself out to be the father of the child during that period
673 shall be deemed to have developed a substantial relationship
674 with the child and to have otherwise met the requirements of
675 this paragraph.

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

682 1. Filed a notarized claim of paternity form with the
683 Florida Putative Father Registry within the Office of Vital
684 Statistics of the Department of Health, which form shall be
685 maintained in the confidential registry established for that
686 purpose and shall be considered filed when the notice is entered
687 in the registry of notices from unmarried biological fathers.

688 2. Upon service of a notice of an intended adoption plan or
689 a petition for termination of parental rights pending adoption,
690 executed and filed an affidavit in that proceeding stating that
691 he is personally fully able and willing to take responsibility
692 for the child, setting forth his plans for care of the child,
693 and agreeing to a court order of child support and a
694 contribution to the payment of living and medical expenses
695 incurred for the mother's pregnancy and the child's birth in
696 accordance with his ability to pay.

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697 3. If he had knowledge of the pregnancy, paid a fair and
698 reasonable amount of the living and medical expenses incurred in
699 connection with the mother's pregnancy and the child's birth, in
700 accordance with his financial ability and when not prevented
701 from doing so by the birth mother or person or authorized agency
702 having lawful custody of the child. The responsibility of the
703 unmarried biological father to provide financial assistance to
704 the birth mother during her pregnancy and to the child after
705 birth is not abated because support is being provided to the
706 birth mother or child by the adoption entity, a prospective
707 adoptive parent, or a third party, nor does it serve as a basis
708 to excuse the birth father's failure to provide support.

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

713 (d)-(e) The petitioner shall file with the court a
714 certificate from the Office of Vital Statistics stating that a
715 diligent search has been made of the Florida Putative Father
716 Registry of notices from unmarried biological fathers described
717 in subparagraph (b)1. and that no filing has been found
718 pertaining to the father of the child in question or, if a
719 filing is found, stating the name of the putative father and the
720 time and date of filing. That certificate shall be filed with
721 the court prior to the entry of a final judgment of termination
722 of parental rights.

723 (e)-(d) An unmarried biological father who does not comply
724 with each of the conditions provided in this subsection is
725 deemed to have waived and surrendered any rights in relation to

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726 the child, including the right to notice of any judicial
727 proceeding in connection with the adoption of the child, and his
728 consent to the adoption of the child is not required.

729 (3) Pursuant to chapter 48, an adoption entity shall serve
730 a notice of intended adoption plan upon any known and locatable
731 unmarried biological father who is identified to the adoption
732 entity by the mother by the date she signs her consent for
733 adoption if the child is 6 months of age or younger at the time
734 the consent is executed ~~or who is identified by a diligent~~
735 ~~search of the Florida Putative Father Registry, or upon an~~
736 ~~entity whose consent is required.~~ Service of the notice of
737 intended adoption plan is not required ~~mandatory~~ when the
738 unmarried biological father signs a consent for adoption or an
739 affidavit of nonpaternity or when the child is more than 6
740 months of age at the time of the execution of the consent by the
741 mother. The notice may be served at any time before the child's
742 birth or before placing the child in the adoptive home. The
743 recipient of the notice may waive service of process by
744 executing a waiver and acknowledging receipt of the plan. The
745 notice of intended adoption plan must specifically state that if
746 the unmarried biological father desires to contest the adoption
747 plan he must, within 30 days after service, file with the court
748 a verified response that contains a pledge of commitment to the
749 child in substantial compliance with subparagraph (2)(b)2. and a
750 claim of paternity form with the Office of Vital Statistics, and
751 must provide the adoption entity with a copy of the verified
752 response filed with the court and the claim of paternity form
753 filed with the Office of Vital Statistics. The notice must also
754 include instructions for submitting a claim of paternity form to

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755 the Office of Vital Statistics and the address to which the
756 claim must be sent. If the party served with the notice of
757 intended adoption plan is an entity whose consent is required,
758 the notice must specifically state that the entity must file,
759 within 30 days after service, a verified response setting forth
760 a legal basis for contesting the intended adoption plan,
761 specifically addressing the best interests ~~interest~~ of the
762 child.

763 (a) If the unmarried biological father or entity whose
764 consent is required fails to timely and properly file a verified
765 response with the court and, in the case of an unmarried
766 biological father, a claim of paternity form with the Office of
767 Vital Statistics, the court shall enter a default judgment
768 against the ~~any~~ unmarried biological father or entity and the
769 consent of that unmarried biological father or entity shall no
770 longer be required under this chapter and shall be deemed to
771 have waived any claim of rights to the child. To avoid an entry
772 of a default judgment, within 30 days after receipt of service
773 of the notice of intended adoption plan:

774 1. The unmarried biological father must:

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

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

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

781 2. The entity whose consent is required must file a
782 verified response setting forth a legal basis for contesting the
783 intended adoption plan, specifically addressing the best

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784 interests ~~interest~~ of the child.

785 (b) If the mother identifies a potential unmarried
786 biological father within the timeframes required by the statute,
787 whose location is unknown, the adoption entity shall conduct a
788 diligent search pursuant to s. 63.088. If, upon completion of a
789 diligent search, the potential unmarried biological father's
790 location remains unknown and a search of the Florida Putative
791 Father Registry fails to reveal a match, the adoption entity
792 shall request in the petition for termination of parental rights
793 pending adoption that the court declare the diligent search to
794 be in compliance with s. 63.088, that the adoption entity has no
795 further obligation to provide notice to the potential unmarried
796 biological father, on or before the date of filing a petition to
797 terminate parental rights, and that the potential unmarried
798 biological father's consent to the adoption is not required.

799 (4) Any person whose consent is required under paragraph
800 (1)(b), or any other man, may execute an irrevocable affidavit
801 of nonpaternity in lieu of a consent under this section and by
802 doing so waives notice to all court proceedings after the date
803 of execution. An affidavit of nonpaternity must be executed as
804 provided in s. 63.082. The affidavit of nonpaternity may be
805 executed prior to the birth of the child. The person executing
806 the affidavit must receive disclosure under s. 63.085 prior to
807 signing the affidavit. For purposes of this chapter, an
808 affidavit of nonpaternity is sufficient if it contains a
809 specific denial of parental obligations, and does not need to
810 deny the existence of a biological relationship.

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

812 (a) Written consent to adoption has been executed by the

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813 adult and the adult's spouse, if any, unless the spouse's
814 consent is waived by the court for good cause.

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

817 63.063 Responsibility of parents for actions; fraud or
818 misrepresentation; contesting termination of parental rights and
819 adoption.—

820 (2) Any person injured by a fraudulent representation or
821 action in connection with an adoption may pursue civil or
822 criminal penalties as provided by law. A fraudulent
823 representation is not a defense to compliance with the
824 requirements of this chapter and is not a basis for dismissing a
825 petition for termination of parental rights or a petition for
826 adoption, for vacating an adoption decree, or for granting
827 custody to the offended party. Custody and adoption
828 determinations must be based on the best interests ~~interest~~ of
829 the child in accordance with s. 61.13.

830 Section 14. Paragraph (d) of subsection (1), paragraphs (c)
831 and (d) of subsection (3), paragraphs (a), (d), and (e) of
832 subsection (4), and subsections (6) and (7) of section 63.082,
833 Florida Statutes, are amended to read:

834 63.082 Execution of consent to adoption or affidavit of
835 nonpaternity; family social and medical history; revocation
836 ~~withdrawal~~ of consent.—

837 (1)

838 (d) The ~~notice and~~ consent provisions of this chapter as
839 they relate to the father birth of a child ~~or to legal fathers~~
840 do not apply in cases in which the child is conceived as a
841 result of a violation of the criminal laws of this or another

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842 state or country, including, but not limited to, sexual battery,
843 unlawful sexual activity with certain minors under s. 794.05,
844 lewd acts perpetrated upon a minor, or incest. A criminal
845 conviction is not required for the court to find that the child
846 was conceived as a result of a violation of the criminal laws of
847 this state or another state or country.

848 (3)

849 (c) If any person who is required to consent is unavailable
850 because the person cannot be located, an ~~the petition to~~
851 ~~terminate parental rights pending adoption must be accompanied~~
852 ~~by the~~ affidavit of diligent search required under s. 63.088
853 shall be filed.

854 (d) If any person who is required to consent is unavailable
855 because the person is deceased, the petition to terminate
856 parental rights pending adoption must be accompanied by a
857 certified copy of the death certificate. In an adoption of a
858 stepchild or a relative, the certified copy of the death
859 certificate of the person whose consent is required may ~~must~~ be
860 attached to the petition for adoption if a separate petition for
861 termination of parental rights is not being filed.

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

866 (d) The consent to adoption or the affidavit of
867 nonpaternity must be signed in the presence of two witnesses and
868 be acknowledged before a notary public who is not signing as one
869 of the witnesses. The notary public must legibly note on the
870 consent or the affidavit the date and time of execution. The

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871 witnesses' names must be typed or printed underneath their
872 signatures. The witnesses' home or business addresses must be
873 included. The person who signs the consent or the affidavit has
874 the right to have at least one of the witnesses be an individual
875 who does not have an employment, professional, or personal
876 relationship with the adoption entity or the prospective
877 adoptive parents. The adoption entity must give reasonable
878 advance notice to the person signing the consent or affidavit of
879 the right to select a witness of his or her own choosing. The
880 person who signs the consent or affidavit must acknowledge in
881 writing on the consent or affidavit that such notice was given
882 and indicate the witness, if any, who was selected by the person
883 signing the consent or affidavit. The adoption entity must
884 include its name, address, and telephone number on the consent
885 to adoption or affidavit of nonpaternity.

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

890 CONSENT TO ADOPTION

891
892 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES
893 NOT HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP
894 WITH THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO
895 BE PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A
896 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE
897 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR
898 WITNESSES YOU SELECTED, IF ANY.

899

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900 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY
901 OF THE FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE
902 SIGNING THIS CONSENT:

- 903
- 904 1. CONSULT WITH AN ATTORNEY;
 - 905 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE
906 LEGALLY PROHIBITED;
 - 907 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR
908 FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
 - 909 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY PROHIBITED;
910 AND
 - 911 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE
912 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.
- 913

914 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS
915 TO YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE
916 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP
917 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED
918 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL
919 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE
920 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT
921 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
922 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN
923 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT
924 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
925 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY
926 BE EXECUTED. ANY MAN MAY EXECUTE A CONSENT AT ANY TIME AFTER THE
927 BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT, IT IS
928 VALID, BINDING, AND IRREVOCABLE AND CANNOT BE INVALIDATED

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929 ~~WITHDRAWN~~ UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
930 DURESS.

931

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

934

935 1. NOTIFY THE ADOPTION ENTITY, BY WRITING A LETTER, THAT
936 YOU WISH TO WITHDRAW YOUR CONSENT; AND

937 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD OR
938 DURESS.

939

940 This statement of rights is not required for the adoption of a
941 relative, an adult, a stepchild, or a child older than 6 months
942 of age. A consent form for the adoption of a child older than 6
943 months of age at the time of the execution of consent must
944 contain a statement outlining the revocation rights provided in
945 paragraph (c).

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

951 (b) Upon execution of the consent of the parent, the
952 adoption entity shall be permitted to ~~may~~ intervene in the
953 dependency case as a party in interest and must provide the
954 court that acquired ~~having~~ jurisdiction over the minor, pursuant
955 to the shelter or dependency petition filed by the department, a
956 copy of the preliminary home study of the prospective adoptive
957 parents and any other evidence of the suitability of the

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958 placement. The preliminary home study must be maintained with
959 strictest confidentiality within the dependency court file and
960 the department's file. A preliminary home study must be provided
961 to the court in all cases in which an adoption entity has
962 intervened pursuant to this section. Unless the court has
963 concerns regarding the qualifications of the home study
964 provider, or concerns that the home study may not be adequate to
965 determine the best interests of the child, the home study
966 provided by the adoption entity shall be deemed to be sufficient
967 and no additional home study needs to be performed by the
968 department.

969 (c) If an adoption entity files a motion to intervene in
970 the dependency case in accordance with this chapter, the
971 dependency court shall promptly grant a hearing to determine
972 whether the adoption entity has filed the required documents to
973 be permitted to intervene and whether a change of placement of
974 the child is appropriate. At the time the court orders
975 intervention, the adoption entity shall provide the prospective
976 adoptive parents with a written list of all Model Approach to
977 Partnerships in Parenting (MAPP) class training programs within
978 a 50-mile radius of the residence of the prospective adoptive
979 parents.

980 (d) ~~(e)~~ Upon a determination by the court that the
981 prospective adoptive parents are properly qualified to adopt the
982 minor child and that the adoption appears to be in the best
983 interests ~~interest~~ of the minor child, the court shall
984 immediately order the transfer of custody of the minor child to
985 the prospective adoptive parents, under the supervision of the
986 adoption entity. The adoption entity shall thereafter provide

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987 monthly supervision reports to the department until finalization
988 of the adoption.

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

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

1000 (a) The person seeking to revoke ~~withdraw~~ consent must, in
1001 accordance with paragraph (4) (c), notify the adoption entity in
1002 writing by certified mail, return receipt requested, within 3
1003 business days after execution of the consent. As used in this
1004 subsection, the term "business day" means any day on which the
1005 United States Postal Service accepts certified mail for
1006 delivery.

1007 (b) Upon receiving timely written notice from a person
1008 whose consent to adoption is required of that person's desire to
1009 revoke ~~withdraw~~ consent, the adoption entity must contact the
1010 prospective adoptive parent to arrange a time certain for the
1011 adoption entity to regain physical custody of the minor, unless,
1012 upon a motion for emergency hearing by the adoption entity, the
1013 court determines in written findings that placement of the minor
1014 with the person who had legal or physical custody of the child
1015 immediately before the child was placed for adoption may

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1016 endanger the minor or that the person who desires to revoke
1017 ~~withdraw~~ consent is not required to consent to the adoption, has
1018 been determined to have abandoned the child, or is otherwise
1019 subject to a determination that the person's consent is waived
1020 under this chapter.

1021 (c) If the court finds that the placement may endanger the
1022 minor, the court shall enter an order continuing the placement
1023 of the minor with the prospective adoptive parents pending
1024 further proceedings if they desire continued placement. If the
1025 prospective adoptive parents do not desire continued placement,
1026 the order must include, but need not be limited to, a
1027 determination of whether temporary placement in foster care,
1028 with the person who had legal or physical custody of the child
1029 immediately before placing the child for adoption, or with a
1030 relative is in the best interests ~~interest~~ of the child and
1031 whether an investigation by the department is recommended.

1032 (d) If the person revoking ~~withdrawing~~ consent claims to be
1033 the father of the minor but has not been established to be the
1034 father by marriage, court order, or scientific testing, the
1035 court may order scientific paternity testing and reserve ruling
1036 on removal of the minor until the results of such testing have
1037 been filed with the court.

1038 (e) The adoption entity must return the minor within 3
1039 business days after timely and proper notification of the
1040 revocation ~~withdrawal~~ of consent or after the court determines
1041 that revocation ~~withdrawal~~ is timely and in accordance with the
1042 requirements of this chapter ~~valid and binding~~ upon
1043 consideration of an emergency motion, as filed pursuant to
1044 paragraph (b), to the physical custody of the person revoking

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1045 ~~withdrawing~~ consent or the person directed by the court. If the
1046 person seeking to revoke ~~withdraw~~ consent claims to be the
1047 father of the minor but has not been established to be the
1048 father by marriage, court order, or scientific testing, the
1049 adoption entity may return the minor to the care and custody of
1050 the mother, if she desires such placement and she is not
1051 otherwise prohibited by law from having custody of the child.

1052 (f) Following the revocation period ~~for withdrawal of~~
1053 ~~consent~~ described in paragraph (a), ~~or the placement of the~~
1054 ~~child with the prospective adoptive parents, whichever occurs~~
1055 ~~later~~, consent may be set aside ~~withdrawn~~ only when the court
1056 finds that the consent was obtained by fraud or duress.

1057 (g) An affidavit of nonpaternity may be set aside ~~withdrawn~~
1058 only if the court finds that the affidavit was obtained by fraud
1059 or duress.

1060 (h) If the consent of one parent is set aside or revoked in
1061 accordance with this chapter, any other consents executed by the
1062 other parent or a third party whose consent is required for the
1063 adoption of the child may not be used by the parent whose
1064 consent was revoked or set aside to terminate or diminish the
1065 rights of the other parent or third party whose consent was
1066 required for the adoption of the child.

1067 Section 15. Subsection (1) and paragraph (a) of subsection
1068 (2) of section 63.085, Florida Statutes, are amended, and
1069 paragraph (c) is added to subsection (2) of that section, to
1070 read:

1071 63.085 Disclosure by adoption entity.—

1072 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE
1073 PARENTS.—Within 14 days after a person seeking to adopt a minor

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1074 or a person seeking to place a minor for adoption contacts an
1075 adoption entity in person or provides the adoption entity with a
1076 mailing address, the entity must provide a written disclosure
1077 statement to that person if the entity agrees or continues to
1078 work with the person. The adoption entity shall also provide the
1079 written disclosure to the parent who did not initiate contact
1080 with the adoption entity within 14 days after that parent is
1081 identified and located. For purposes of providing the written
1082 disclosure, a person is considered to be seeking to place a
1083 minor for adoption if that person has sought information or
1084 advice from the adoption entity regarding the option of adoptive
1085 placement. The written disclosure statement must be in
1086 substantially the following form:

1087
1088 ADOPTION DISCLOSURE

1089 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO
1090 ALL PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A
1091 MINOR FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS
1092 REGARDING ADOPTION UNDER FLORIDA LAW:

1093
1094 1. The name, address, and telephone number of the adoption
1095 entity providing this disclosure is:

1096 Name:

1097 Address:

1098 Telephone Number:

1099 2. The adoption entity does not provide legal
1100 representation or advice to parents or anyone signing a consent
1101 for adoption or affidavit of nonpaternity, and parents have the
1102 right to consult with an attorney of their own choosing to

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1103 advise them.

1104 3. With the exception of an adoption by a stepparent or
1105 relative, a child cannot be placed into a prospective adoptive
1106 home unless the prospective adoptive parents have received a
1107 favorable preliminary home study, including criminal and child
1108 abuse clearances.

1109 4. A valid consent for adoption may not be signed by the
1110 birth mother until 48 hours after the birth of the child, or the
1111 day the birth mother is notified, in writing, that she is fit
1112 for discharge from the licensed hospital or birth center. Any
1113 man may sign a valid consent for adoption at any time after the
1114 birth of the child.

1115 5. A consent for adoption signed before the child attains
1116 the age of 6 months is binding and irrevocable from the moment
1117 it is signed unless it can be proven in court that the consent
1118 was obtained by fraud or duress. A consent for adoption signed
1119 after the child attains the age of 6 months is valid from the
1120 moment it is signed; however, it may be revoked up to 3 business
1121 days after it was signed.

1122 6. A consent for adoption is not valid if the signature of
1123 the person who signed the consent was obtained by fraud or
1124 duress.

1125 7. An unmarried biological father must act immediately in
1126 order to protect his parental rights. Section 63.062, Florida
1127 Statutes, prescribes that any father seeking to establish his
1128 right to consent to the adoption of his child must file a claim
1129 of paternity with the Florida Putative Father Registry
1130 maintained by the Office of Vital Statistics of the Department
1131 of Health by the date a petition to terminate parental rights is

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

1149 8. There are alternatives to adoption, including foster
1150 care, relative care, and parenting the child. There may be
1151 services and sources of financial assistance in the community
1152 available to parents if they choose to parent the child.

1153 9. A parent has the right to have a witness of his or her
1154 choice, who is unconnected with the adoption entity or the
1155 adoptive parents, to be present and witness the signing of the
1156 consent or affidavit of nonpaternity.

1157 10. A parent 14 years of age or younger must have a parent,
1158 legal guardian, or court-appointed guardian ad litem to assist
1159 and advise the parent as to the adoption plan and to witness
1160 consent.

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1161 11. A parent has a right to receive supportive counseling
1162 from a counselor, social worker, physician, clergy, or attorney.

1163 12. The payment of living or medical expenses by the
1164 prospective adoptive parents before the birth of the child does
1165 not, in any way, obligate the parent to sign the consent for
1166 adoption.

1167 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

1168 (a) At the time that an adoption entity is responsible for
1169 selecting prospective adoptive parents for a born or unborn
1170 child whose parents are seeking to place the child for adoption
1171 or whose rights were terminated pursuant to chapter 39, the
1172 adoption entity must provide the prospective adoptive parents
1173 with information concerning the background of the child to the
1174 extent such information is disclosed to the adoption entity by
1175 the parents, legal custodian, or the department. This subsection
1176 applies only if the adoption entity identifies the prospective
1177 adoptive parents and supervises the ~~physical~~ placement of the
1178 child in the prospective adoptive parents' home. If any
1179 information cannot be disclosed because the records custodian
1180 failed or refused to produce the background information, the
1181 adoption entity has a duty to provide the information if it
1182 becomes available. An individual or entity contacted by an
1183 adoption entity to obtain the background information must
1184 release the requested information to the adoption entity without
1185 the necessity of a subpoena or a court order. In all cases, the
1186 prospective adoptive parents must receive all available
1187 information by the date of the final hearing on the petition for
1188 adoption. The information to be disclosed includes:

1189 1. A family social and medical history form completed

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1190 pursuant to s. 63.162(6).

1191 2. The biological mother's medical records documenting her
1192 prenatal care and the birth and delivery of the child.

1193 3. A complete set of the child's medical records
1194 documenting all medical treatment and care since the child's
1195 birth and before placement.

1196 4. All mental health, psychological, and psychiatric
1197 records, reports, and evaluations concerning the child before
1198 placement.

1199 5. The child's educational records, including all records
1200 concerning any special education needs of the child before
1201 placement.

1202 6. Records documenting all incidents that required the
1203 department to provide services to the child, including all
1204 orders of adjudication of dependency or termination of parental
1205 rights issued pursuant to chapter 39, any case plans drafted to
1206 address the child's needs, all protective services
1207 investigations identifying the child as a victim, and all
1208 guardian ad litem reports filed with the court concerning the
1209 child.

1210 7. Written information concerning the availability of
1211 adoption subsidies for the child, if applicable.

1212 (c) If the cost to the prospective adoptive parent or
1213 parents of obtaining the medical records described in paragraph
1214 (a) exceeds \$500, the prospective adoptive parent or parents may
1215 waive the receipt of the records by providing written
1216 notification of the waiver to the adoption entity and filing a
1217 copy of the written notification in the court file.

1218 Section 16. Subsection (6) of section 63.087, Florida

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1219 Statutes, is amended to read:

1220 63.087 Proceeding to terminate parental rights pending
1221 adoption; general provisions.—

1222 (6) ANSWER AND APPEARANCE REQUIRED.—An answer to the
1223 petition or any pleading requiring an answer must be filed in
1224 accordance with the Florida Family Law Rules of Procedure.
1225 Failure to file a written response to the petition constitutes
1226 grounds upon which the court may terminate parental rights.
1227 Failure to personally appear at the hearing constitutes grounds
1228 upon which the court may terminate parental rights. Any person
1229 present at the hearing to terminate parental rights pending
1230 adoption whose consent to adoption is required under s. 63.062
1231 must:

1232 (a) Be advised by the court that he or she has a right to
1233 ask that the hearing be reset for a later date so that the
1234 person may consult with an attorney; and

1235 (b) Be given an opportunity to admit or deny the
1236 allegations in the petition.

1237 Section 17. Subsection (4) of section 63.088, Florida
1238 Statutes, is amended to read:

1239 63.088 Proceeding to terminate parental rights pending
1240 adoption; notice and service; diligent search.—

1241 (4) REQUIRED INQUIRY.—In proceedings initiated under s.
1242 63.087, the court shall conduct an inquiry of the person who is
1243 placing the minor for adoption and of any relative or person
1244 having legal custody of the minor who is present at the hearing
1245 and likely to have the following information regarding the
1246 identity of:

1247 (a) Any man to whom the mother of the minor was married at

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1248 any time when conception of the minor may have occurred or at
1249 the time of the birth of the minor;

1250 (b) Any man who has filed an affidavit of paternity
1251 pursuant to s. 382.013(2)(c) before the date that a petition for
1252 termination of parental rights is filed with the court;

1253 (c) Any man who has adopted the minor;

1254 (d) Any man who has been adjudicated by a court as the
1255 father of the minor child before the date a petition for
1256 termination of parental rights is filed with the court; and

1257 (e) Any man whom the mother identified to the adoption
1258 entity as a potential biological father before the date she
1259 signed the consent for adoption.

1260

1261 The information sought under this subsection may be provided to
1262 the court in the form of a sworn affidavit by a person having
1263 personal knowledge of the facts, addressing each inquiry
1264 enumerated in this subsection, except that, if the inquiry
1265 identifies a father under paragraph (a), paragraph (b), ~~or~~
1266 paragraph (c), or paragraph (d), the inquiry may not continue
1267 further. The inquiry required under this subsection may be
1268 conducted before the birth of the minor.

1269 Section 18. Subsection (3), paragraph (b) of subsection
1270 (4), and subsections (5) and (7) of section 63.089, Florida
1271 Statutes, are amended to read:

1272 63.089 Proceeding to terminate parental rights pending
1273 adoption; hearing; grounds; dismissal of petition; judgment.—

1274 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
1275 ADOPTION.—The court may enter a judgment terminating parental
1276 rights pending adoption if the court determines by clear and

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1277 convincing evidence, supported by written findings of fact, that
1278 each person whose consent to adoption is required under s.
1279 63.062:

1280 (a) Has executed a valid consent under s. 63.082 and the
1281 consent was obtained according to the requirements of this
1282 chapter;

1283 (b) Has executed an affidavit of nonpaternity and the
1284 affidavit was obtained according to the requirements of this
1285 chapter;

1286 (c) Has been served with a notice of the intended adoption
1287 plan in accordance with the provisions of s. 63.062(3) and has
1288 failed to respond within the designated time period;

1289 (d) Has been properly served notice of the proceeding in
1290 accordance with the requirements of this chapter and has failed
1291 to file a written answer or personally appear at the evidentiary
1292 hearing resulting in the judgment terminating parental rights
1293 pending adoption;

1294 (e) Has been properly served notice of the proceeding in
1295 accordance with the requirements of this chapter and has been
1296 determined under subsection (4) to have abandoned the minor;

1297 (f) Is a parent of the person to be adopted, which parent
1298 has been judicially declared incapacitated with restoration of
1299 competency found to be medically improbable;

1300 (g) Is a person who has legal custody of the person to be
1301 adopted, other than a parent, who has failed to respond in
1302 writing to a request for consent for a period of 60 days or,
1303 after examination of his or her written reasons for withholding
1304 consent, is found by the court to be withholding his or her
1305 consent unreasonably;

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1306 (h) Has been properly served notice of the proceeding in
1307 accordance with the requirements of this chapter, but has been
1308 found by the court, after examining written reasons for the
1309 withholding of consent, to be unreasonably withholding his or
1310 her consent; or

1311 (i) Is the spouse of the person to be adopted who has
1312 failed to consent, and the failure of the spouse to consent to
1313 the adoption is excused by reason of prolonged and unexplained
1314 absence, unavailability, incapacity, or circumstances that are
1315 found by the court to constitute unreasonable withholding of
1316 consent.

1317 (4) FINDING OF ABANDONMENT.—A finding of abandonment
1318 resulting in a termination of parental rights must be based upon
1319 clear and convincing evidence that a parent or person having
1320 legal custody has abandoned the child in accordance with the
1321 definition contained in s. 63.032. A finding of abandonment may
1322 also be based upon emotional abuse or a refusal to provide
1323 reasonable financial support, when able, to a birth mother
1324 during her pregnancy.

1325 (b) The child has been abandoned when the parent of a child
1326 is incarcerated on or after October 1, 2001, in a federal,
1327 state, or county correctional institution and:

1328 1. The period of time for which the parent has been or is
1329 expected to be incarcerated will constitute a significant
1330 portion of the child's minority. In determining whether the
1331 period of time is significant, the court shall consider the
1332 child's age and the child's need for a permanent and stable
1333 home. The period of time begins on the date that the parent
1334 enters into incarceration;

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1335 2. The incarcerated parent has been determined by a court
1336 of competent jurisdiction to be a violent career criminal as
1337 defined in s. 775.084, a habitual violent felony offender as
1338 defined in s. 775.084, convicted of child abuse as defined in s.
1339 827.03, or a sexual predator as defined in s. 775.21; has been
1340 convicted of first degree or second degree murder in violation
1341 of s. 782.04 or a sexual battery that constitutes a capital,
1342 life, or first degree felony violation of s. 794.011; or has
1343 been convicted of a substantially similar offense in another
1344 jurisdiction. As used in this section, the term "substantially
1345 similar offense" means any offense that is substantially similar
1346 in elements and penalties to one of those listed in this
1347 subparagraph, and that is in violation of a law of any other
1348 jurisdiction, whether that of another state, the District of
1349 Columbia, the United States or any possession or territory
1350 thereof, or any foreign jurisdiction; or

1351 3. The court determines by clear and convincing evidence
1352 that continuing the parental relationship with the incarcerated
1353 parent would be harmful to the child and, for this reason,
1354 termination of the parental rights of the incarcerated parent is
1355 in the best interests ~~interest~~ of the child.

1356 (5) DISMISSAL OF PETITION.—If the court does not find by
1357 clear and convincing evidence that parental rights of a parent
1358 should be terminated pending adoption, the court must dismiss
1359 the petition and that parent's parental rights that were the
1360 subject of such petition shall remain in full force under the
1361 law. The order must include written findings in support of the
1362 dismissal, including findings as to the criteria in subsection
1363 (4) if rejecting a claim of abandonment.

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1364 (a) Parental rights may not be terminated based upon a
1365 consent that the court finds has been timely revoked ~~withdrawn~~
1366 under s. 63.082 or a consent to adoption or affidavit of
1367 nonpaternity that the court finds was obtained by fraud or
1368 duress.

1369 (b) The court must enter an order based upon written
1370 findings providing for the placement of the minor, but the court
1371 may not proceed to determine custody between competing eligible
1372 parties. The placement of the child shall revert to the parent
1373 or guardian who had physical custody of the child at the time of
1374 the placement for adoption unless the court determines upon
1375 clear and convincing evidence that this placement is not in the
1376 best interests of the child or is not an available option for
1377 the child. The court may not change the placement of a child who
1378 has established a bonded relationship with the current caregiver
1379 without providing for a reasonable transition plan consistent
1380 with the best interests of the child. The court may direct the
1381 parties to participate in a reunification or unification plan
1382 with a qualified professional to assist the child in the
1383 transition. The court may order scientific testing to determine
1384 the paternity of the minor only if the court has determined that
1385 the consent of the alleged father would be required, unless all
1386 parties agree that such testing is in the best interests of the
1387 child. The court may not order scientific testing to determine
1388 paternity of an unmarried biological father if the child has a
1389 father as described in s. 63.088(4)(a)-(d) whose rights have not
1390 been previously terminated at any time during which the court
1391 has jurisdiction over the minor. Further proceedings, if any,
1392 regarding the minor must be brought in a separate custody action

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1393 under chapter 61, a dependency action under chapter 39, or a
1394 paternity action under chapter 742.

1395 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

1396 (a) A motion for relief from a judgment terminating
1397 parental rights must be filed with the court originally entering
1398 the judgment. The motion must be filed within a reasonable time,
1399 but not later than 1 year after the entry of the judgment. An
1400 unmarried biological father does not have standing to seek
1401 relief from a judgment terminating parental rights if the mother
1402 did not identify him to the adoption entity before the date she
1403 signed a consent for adoption or if he was not located because
1404 the mother failed or refused to provide sufficient information
1405 to locate him.

1406 (b) No later than 30 days after the filing of a motion
1407 under this subsection, the court must conduct a preliminary
1408 hearing to determine what contact, if any, shall be permitted
1409 between a parent and the child pending resolution of the motion.
1410 Such contact shall be considered only if it is requested by a
1411 parent who has appeared at the hearing and may not be awarded
1412 unless the parent previously established a bonded relationship
1413 with the child and the parent has pled a legitimate legal basis
1414 and established a prima facie case for setting aside the
1415 judgment terminating parental rights. If the court orders
1416 contact between a parent and child, the order must be issued in
1417 writing as expeditiously as possible and must state with
1418 specificity any provisions regarding contact with persons other
1419 than those with whom the child resides.

1420 (c) At the preliminary hearing, the court, upon the motion
1421 of any party or upon its own motion, may order scientific

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1422 testing to determine the paternity of the minor if the person
1423 seeking to set aside the judgment is alleging to be the child's
1424 father and that fact has not previously been determined by
1425 legitimacy or scientific testing. The court may order visitation
1426 with a person for whom scientific testing for paternity has been
1427 ordered and who has previously established a bonded relationship
1428 with the child.

1429 (d) Unless otherwise agreed between the parties or for good
1430 cause shown, the court shall conduct a final hearing on the
1431 motion for relief from judgment within 45 days after the filing
1432 and enter its written order as expeditiously as possible
1433 thereafter.

1434 (e) If the court grants relief from the judgment
1435 terminating parental rights and no new pleading is filed to
1436 terminate parental rights, the placement of the child shall
1437 revert to the parent or guardian who had physical custody of the
1438 child at the time of the original placement for adoption unless
1439 the court determines upon clear and convincing evidence that
1440 this placement is not in the best interests of the child or is
1441 not an available option for the child. The court may not change
1442 the placement of a child who has established a bonded
1443 relationship with the current caregiver without providing for a
1444 reasonable transition plan consistent with the best interests of
1445 the child. The court may direct the parties to participate in a
1446 reunification or unification plan with a qualified professional
1447 to assist the child in the transition. The court may not direct
1448 the placement of a child with a person other than the adoptive
1449 parents without first obtaining a favorable home study of that
1450 person and any other persons residing in the proposed home and

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1451 shall take whatever additional steps are necessary and
1452 appropriate for the physical and emotional protection of the
1453 child.

1454 Section 19. Subsection (3) of section 63.092, Florida
1455 Statutes, is amended to read:

1456 63.092 Report to the court of intended placement by an
1457 adoption entity; at-risk placement; preliminary study.—

1458 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the
1459 intended adoptive home, a preliminary home study must be
1460 performed by a licensed child-placing agency, a child-caring
1461 agency registered under s. 409.176, a licensed professional, or
1462 agency described in s. 61.20(2), unless the adoptee is an adult
1463 or the petitioner is a stepparent or a relative. If the adoptee
1464 is an adult or the petitioner is a stepparent or a relative, a
1465 preliminary home study may be required by the court for good
1466 cause shown. The department is required to perform the
1467 preliminary home study only if there is no licensed child-
1468 placing agency, child-caring agency registered under s. 409.176,
1469 licensed professional, or agency described in s. 61.20(2), in
1470 the county where the prospective adoptive parents reside. The
1471 preliminary home study must be made to determine the suitability
1472 of the intended adoptive parents and may be completed prior to
1473 identification of a prospective adoptive minor. A favorable
1474 preliminary home study is valid for 1 year after the date of its
1475 completion. Upon its completion, a signed copy of the home study
1476 must be provided to the intended adoptive parents who were the
1477 subject of the home study. A minor may not be placed in an
1478 intended adoptive home before a favorable preliminary home study
1479 is completed unless the adoptive home is also a licensed foster

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1480 home under s. 409.175. The preliminary home study must include,
1481 at a minimum:

1482 (a) An interview with the intended adoptive parents;

1483 (b) Records checks of the department's central abuse
1484 registry and criminal records correspondence checks under s.
1485 39.0138 through the Department of Law Enforcement on the
1486 intended adoptive parents;

1487 (c) An assessment of the physical environment of the home;

1488 (d) A determination of the financial security of the
1489 intended adoptive parents;

1490 (e) Documentation of counseling and education of the
1491 intended adoptive parents on adoptive parenting;

1492 (f) Documentation that information on adoption and the
1493 adoption process has been provided to the intended adoptive
1494 parents;

1495 (g) Documentation that information on support services
1496 available in the community has been provided to the intended
1497 adoptive parents; and

1498 (h) A copy of each signed acknowledgment of receipt of
1499 disclosure required by s. 63.085.

1500

1501 If the preliminary home study is favorable, a minor may be
1502 placed in the home pending entry of the judgment of adoption. A
1503 minor may not be placed in the home if the preliminary home
1504 study is unfavorable. If the preliminary home study is
1505 unfavorable, the adoption entity may, within 20 days after
1506 receipt of a copy of the written recommendation, petition the
1507 court to determine the suitability of the intended adoptive
1508 home. A determination as to suitability under this subsection

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1509 does not act as a presumption of suitability at the final
1510 hearing. In determining the suitability of the intended adoptive
1511 home, the court must consider the totality of the circumstances
1512 in the home. ~~A No~~ minor may not be placed in a home in which
1513 there resides any person determined by the court to be a sexual
1514 predator as defined in s. 775.21 or to have been convicted of an
1515 offense listed in s. 63.089(4)(b)2.

1516 Section 20. Subsection (7) is added to section 63.097,
1517 Florida Statutes, to read:

1518 63.097 Fees.—

1519 (7) In determining reasonable attorney fees, the court
1520 shall use the following criteria:

1521 (a) The time and labor required, the novelty and difficulty
1522 of the question involved, and the skill requisite to perform the
1523 legal service properly.

1524 (b) The likelihood, if apparent to the client, that the
1525 acceptance of the particular employment will preclude other
1526 employment by the attorney.

1527 (c) The fee customarily charged in the locality for similar
1528 legal services.

1529 (d) The amount involved in the subject matter of the
1530 representation, the responsibility involved in the
1531 representation, and the results obtained.

1532 (e) The time limitations imposed by the client or by the
1533 circumstances and, as between attorney and client, any
1534 additional or special time demands or requests of the attorney
1535 by the client.

1536 (f) The nature and length of the professional relationship
1537 with the client.

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1538 (g) The experience, reputation, diligence, and ability of
1539 the attorney or attorneys performing the service and the skill,
1540 expertise, or efficiency of effort reflected in the actual
1541 providing of such services.

1542 (h) Whether the fee is fixed or contingent.

1543 Section 21. Section 63.152, Florida Statutes, is amended to
1544 read:

1545 63.152 Application for new birth record.—Within 30 days
1546 after entry of a judgment of adoption, the clerk of the court or
1547 the adoption entity shall transmit a certified statement of the
1548 entry to the state registrar of vital statistics on a form
1549 provided by the registrar. A new birth record containing the
1550 necessary information supplied by the certificate shall be
1551 issued by the registrar on application of the adopting parents
1552 or the adopted person.

1553 Section 22. Subsection (7) of section 63.162, Florida
1554 Statutes, is amended to read:

1555 63.162 Hearings and records in adoption proceedings;
1556 confidential nature.—

1557 (7) The court may, upon petition of an adult adoptee or
1558 birth parent, for good cause shown, appoint an intermediary or
1559 adoption entity ~~a licensed child-placing agency~~ to contact a
1560 birth parent or adult adoptee, as applicable, who has not
1561 registered with the adoption registry pursuant to s. 63.165 and
1562 advise both ~~them~~ of the availability of the intermediary or
1563 adoption entity and that the birth parent or adult adoptee, as
1564 applicable, wishes to establish contact ~~same~~.

1565 Section 23. Paragraph (c) of subsection (2) of section
1566 63.167, Florida Statutes, is amended to read:

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1567 63.167 State adoption information center.—

1568 (2) The functions of the state adoption information center
1569 shall include:

1570 (c) Operating a toll-free telephone number to provide
1571 information and referral services. The state adoption
1572 information center shall provide contact information for all
1573 adoption entities in the caller's county or, if no adoption
1574 entities are located in the caller's county, the number of the
1575 nearest adoption entity when contacted for a referral to make an
1576 adoption plan and shall rotate the order in which the names of
1577 adoption entities are provided to callers.

1578 Section 24. Paragraph (g) of subsection (1) and subsections
1579 (2) and (8) of section 63.212, Florida Statutes, are amended to
1580 read:

1581 63.212 Prohibited acts; penalties for violation.—

1582 (1) It is unlawful for any person:

1583 (g) Except an adoption entity, to advertise or offer to the
1584 public, in any way, by any medium whatever that a minor is
1585 available for adoption or that a minor is sought for adoption;
1586 and, further, it is unlawful for any person to publish or
1587 broadcast any such advertisement or assist an unlicensed person
1588 or entity in publishing or broadcasting any such advertisement
1589 without including a Florida license number of the agency or
1590 attorney placing the advertisement.

1591 1. Only a person who is an attorney licensed to practice
1592 law in this state or an adoption entity licensed under the laws
1593 of this state may place a paid advertisement or paid listing of
1594 the person's telephone number, on the person's own behalf, in a
1595 telephone directory that:

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- 1596 a. A child is offered or wanted for adoption; or
1597 b. The person is able to place, locate, or receive a child
1598 for adoption.
- 1599 2. A person who publishes a telephone directory that is
1600 distributed in this state:
- 1601 a. Shall include, at the beginning of any classified
1602 heading for adoption and adoption services, a statement that
1603 informs directory users that only attorneys licensed to practice
1604 law in this state and licensed adoption entities may legally
1605 provide adoption services under state law.
- 1606 b. May publish an advertisement described in subparagraph
1607 1. in the telephone directory only if the advertisement contains
1608 the following:
- 1609 (I) For an attorney licensed to practice law in this state,
1610 the attorney's Florida Bar number.
- 1611 (II) For an adoption entity licensed under the laws of this
1612 state, the number on the adoption entity license.
- 1613 (2) Any woman who is a birth mother, or a woman who holds
1614 herself out to be a birth mother, who is interested in making an
1615 adoption plan and who knowingly or intentionally benefits from
1616 the payment of adoption-related expenses in connection with that
1617 adoption plan commits adoption deception if:
- 1618 (a) The person knows or should have known that the woman is
1619 not pregnant at the time the sums were requested or received;
- 1620 (b) The woman accepts living expenses assistance from a
1621 prospective adoptive parent or adoption entity without
1622 disclosing that she is receiving living expenses assistance from
1623 another prospective adoptive parent or adoption entity at the
1624 same time in an effort to adopt the same child; or

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1625 (c) The woman knowingly makes false representations to
1626 induce the payment of living expenses and does not intend to
1627 make an adoptive placement. It is unlawful for:

1628 ~~(a) Any person or adoption entity under this chapter to:~~

1629 ~~1. Knowingly provide false information; or~~

1630 ~~2. Knowingly withhold material information.~~

1631 ~~(b) A parent, with the intent to defraud, to accept~~
1632 ~~benefits related to the same pregnancy from more than one~~
1633 ~~adoption entity without disclosing that fact to each entity.~~

1634
1635 Any person who willfully commits adoption deception ~~violates any~~
1636 ~~provision of this subsection~~ commits a misdemeanor of the second
1637 degree, punishable as provided in s. 775.082 or s. 775.083, if
1638 the sums received by the birth mother or woman holding herself
1639 out to be a birth mother do not exceed \$300, and a felony of the
1640 third degree, punishable as provided in s. 775.082, s. 775.083,
1641 or s. 775.084, if the sums received by the birth mother or woman
1642 holding herself out to be a birth mother exceed \$300. In
1643 addition, the person is liable for damages caused by such acts
1644 or omissions, including reasonable attorney ~~attorney's~~ fees and
1645 costs incurred by the adoption entity or the prospective
1646 adoptive parent. Damages may be awarded through restitution in
1647 any related criminal prosecution or by filing a separate civil
1648 action.

1649 (8) Unless otherwise indicated, a person who willfully and
1650 with criminal intent violates any provision of this section,
1651 excluding paragraph (1)(g), commits a felony of the third
1652 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1653 775.084. A person who willfully and with criminal intent

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1654 violates paragraph (1)(g) commits a misdemeanor of the second
1655 degree, punishable as provided in s. 775.083; and each day of
1656 continuing violation shall be considered a separate offense. In
1657 addition, any person who knowingly publishes or assists with the
1658 publication of any advertisement or other publication that
1659 violates the requirements of paragraph (1)(g) commits a
1660 misdemeanor of the second degree, punishable as provided in s.
1661 775.083, and may be required to pay a fine of up to \$150 per day
1662 for each day of continuing violation.

1663 Section 25. Paragraph (b) of subsection (1), paragraphs (a)
1664 and (e) of subsection (2), and paragraphs (b), (h), and (i) of
1665 subsection (6) of section 63.213, Florida Statutes, are amended
1666 to read:

1667 63.213 Preplanned adoption agreement.—

1668 (1) Individuals may enter into a preplanned adoption
1669 arrangement as specified in this section, but such arrangement
1670 may not in any way:

1671 (b) Constitute consent of a mother to place her biological
1672 child for adoption until 48 hours after the following birth of
1673 the child and unless the court making the custody determination
1674 or approving the adoption determines that the mother was aware
1675 of her right to rescind within the 48-hour period after the
1676 following birth of the child but chose not to rescind such
1677 consent. The volunteer mother's right to rescind her consent in
1678 a preplanned adoption applies only when the child is genetically
1679 related to her.

1680 (2) A preplanned adoption agreement must include, but need
1681 not be limited to, the following terms:

1682 (a) That the volunteer mother agrees to become pregnant by

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1683 the fertility technique specified in the agreement, to bear the
1684 child, and to terminate any parental rights and responsibilities
1685 to the child she might have through a written consent executed
1686 at the same time as the preplanned adoption agreement, subject
1687 to a right of rescission by the volunteer mother any time within
1688 48 hours after the birth of the child, if the volunteer mother
1689 is genetically related to the child.

1690 (e) That the intended father and intended mother
1691 acknowledge that they may not receive custody or the parental
1692 rights under the agreement if the volunteer mother terminates
1693 the agreement or if the volunteer mother rescinds her consent to
1694 place her child for adoption within 48 hours after the birth of
1695 the child, if the volunteer mother is genetically related to the
1696 child.

1697 (6) As used in this section, the term:

1698 (b) "Child" means the child or children conceived by means
1699 of a fertility technique ~~an insemination~~ that is part of a
1700 preplanned adoption arrangement.

1701 (h) "Preplanned adoption arrangement" means the arrangement
1702 through which the parties enter into an agreement for the
1703 volunteer mother to bear the child, for payment by the intended
1704 father and intended mother of the expenses allowed by this
1705 section, for the intended father and intended mother to assert
1706 full parental rights and responsibilities to the child if
1707 consent to adoption is not rescinded after birth by a ~~the~~
1708 volunteer mother who is genetically related to the child, and
1709 for the volunteer mother to terminate, subject to any ~~a~~ right of
1710 rescission, all her parental rights and responsibilities to the
1711 child in favor of the intended father and intended mother.

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1712 (i) "Volunteer mother" means a female at least 18 years of
1713 age who voluntarily agrees, subject to a right of rescission if
1714 it is her biological child, that if she should become pregnant
1715 pursuant to a preplanned adoption arrangement, she will
1716 terminate her parental rights and responsibilities to the child
1717 in favor of the intended father and intended mother.

1718 Section 26. Section 63.222, Florida Statutes, is amended to
1719 read:

1720 63.222 Effect on prior adoption proceedings.—Any adoption
1721 made before October 1, 2012, is the effective date of this act
1722 ~~shall be valid, and any proceedings pending on that the~~
1723 effective date and any subsequent amendments thereto of this act
1724 are not affected unless the amendment is designated as a
1725 remedial provision thereby.

1726 Section 27. Section 63.2325, Florida Statutes, is amended
1727 to read:

1728 63.2325 Conditions for invalidation ~~revocation~~ of a consent
1729 to adoption or affidavit of nonpaternity.—Notwithstanding the
1730 requirements of this chapter, a failure to meet any of those
1731 requirements does not constitute grounds for invalidation
1732 ~~revocation~~ of a consent to adoption or revocation ~~withdrawal~~ of
1733 an affidavit of nonpaternity unless the extent and circumstances
1734 of such a failure result in a material failure of fundamental
1735 fairness in the administration of due process, or the failure
1736 constitutes or contributes to fraud or duress in obtaining a
1737 consent to adoption or affidavit of nonpaternity.

1738 Section 28. Section 753.06, Florida Statutes, is created to
1739 read:

1740 753.06 Standards; funding limitations.—

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1741 (1) The standards provided in the final report submitted to
1742 the Legislature pursuant to s. 753.03(4) shall be the state's
1743 standards for supervised visitation and exchange monitoring.

1744 (2) Each supervised visitation program must annually affirm
1745 in a written agreement with the court that it abides by the
1746 standards. If the program has a contract with a child-placing
1747 agency, that contract must include an affirmation that the
1748 program complies with the standards. A copy of the agreement or
1749 contract must be made available to any party upon request.

1750 (3) On or after January 1, 2013, only a supervised
1751 visitation program that has affirmed in a written agreement with
1752 the court that it abides by and is in compliance with the state
1753 standards may receive state funding for supervised visitation or
1754 exchange monitoring services.

1755 Section 29. Section 753.07, Florida Statutes, is created to
1756 read:

1757 753.07 Referrals.—

1758 (1) Courts and referring child-placing agencies must adhere
1759 to the following priorities when determining where to refer
1760 cases for supervised visitation or exchange monitoring:

1761 (a) For cases that are filed under chapter 61 or chapter
1762 741 in which the courts are the primary source of referrals, the
1763 court shall direct referrals as follows:

1764 1. The order must refer the parties to a supervised
1765 visitation program that has a written agreement with the court
1766 as provided in s. 753.06(2) if such a program exists in the
1767 community.

1768 2. If a program does not exist, or if the existing program
1769 is not able to accept the referral for any reason, the court may

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1770 refer the case to a local licensed mental health professional.
1771 Such professional is not required to abide by the state
1772 standards established in s. 753.06; however, the professional
1773 must affirm to the court in writing that he or she has completed
1774 the clearinghouse's free, online supervised visitation training
1775 program and has read and understands the state standards.

1776 (b) In cases governed by chapter 39, the referring child-
1777 placing agency must adhere to the following:

1778 1. The agency that has primary responsibility for the case
1779 must ensure that each family is assessed for problems that could
1780 present safety risks during parent-child contact. If risks are
1781 found, agency staff shall consider referring the parties to a
1782 local supervised visitation program that has affirmed in writing
1783 that it adheres to the state standards if such a program exists
1784 in the community.

1785 2. If agency staff determines that supervised visitation is
1786 unnecessary, such program does not exist, or the existing
1787 program is unable to accept the referral for any reason, the
1788 child protective investigator or case manager who has primary
1789 responsibility for the case may:

1790 a. Supervise the parent-child contact himself or herself.
1791 However, before a child protective investigator or case manager
1792 may supervise visits, he or she must review or receive training
1793 on the online training manual for the state's supervised
1794 visitation programs and affirm in writing to his or her own
1795 agency that he or she has received training on, or has reviewed
1796 and understands, the state standards.

1797 b. Designate a foster parent or relative to supervise the
1798 parent-child visits in those cases that do not warrant the

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1799 supervision of the child protective investigator or case
1800 manager. However, the designated foster parent or relative must
1801 first be apprised that the case manager conducted a safety
1802 assessment described in subparagraph 1., and must be provided
1803 access to free training material on the foster parent's or
1804 relative's role in supervised visitation. Such materials may be
1805 created by the clearinghouse using existing or new material and
1806 must be approved by the department. Such training may be
1807 included in any preservice foster parent training conducted by
1808 the agency.

1809 3. If a program does not exist, or if the existing program
1810 is unable to accept the referral and the child protective
1811 investigator or case manager is unable to supervise the parent-
1812 child contact or designate a foster parent or relative to
1813 supervise the visits as described in subparagraph 2., the agency
1814 that has primary responsibility for the case may refer the case
1815 to other qualified staff within that agency to supervise the
1816 contact. However, before such staff member may supervise any
1817 visits, he or she must review or receive training on the online
1818 training manual for supervised visitation programs and affirm in
1819 writing to his or her own agency that he or she has received
1820 training on, or has reviewed and understands, the training
1821 manual and the state standards.

1822 4. The agency that has primary responsibility for the case
1823 may not refer the case to a subcontractor or other agency to
1824 perform the supervised visitation unless that subcontractor's or
1825 other agency's child protective investigators or case managers
1826 who supervise onsite or offsite visits have reviewed or received
1827 training on the clearinghouse's online training manual for

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1828 supervised visitation programs and affirm to their own agency
1829 that they have received training on, or have reviewed and
1830 understand, the training manual and the state standards.

1831 (2) This section does not prohibit the court from allowing
1832 a litigant's relatives or friends to supervise visits if the
1833 court determines that such supervision is safe. However, such
1834 informal supervisors must be made aware of the free online
1835 clearinghouse materials that they may voluntarily choose to
1836 review. These materials must provide information that helps
1837 educate the informal supervisors about the inherent risks and
1838 complicated dynamics of supervised visitation.

1839 (3) Supervised visitation programs may alert the court in
1840 writing if there are problems with referred cases and the court
1841 may set a hearing to address these problems.

1842 Section 30. Section 753.08, Florida Statutes, is created to
1843 read:

1844 753.08 Security background checks; immunity.-

1845 (1) Because of the special trust or responsibility placed
1846 on volunteers and employees of supervised visitation programs,
1847 such program must conduct a security background investigation
1848 before hiring an employee or certifying a volunteer.

1849 (a) A security background investigation must include, but
1850 need not be limited to, employment history checks, reference
1851 checks, local criminal history records checks through local law
1852 enforcement agencies, and statewide criminal history records
1853 checks through the Department of Law Enforcement.

1854 (b) Upon request, an employer shall furnish a copy of the
1855 personnel record for the employee or former employee who is the
1856 subject of a security background investigation. The information

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1857 contained in the record may include, but need not be limited to,
1858 disciplinary matters and the reason the employee was terminated
1859 from employment, if applicable. An employer who releases a
1860 personnel record for purposes of a security background
1861 investigation is presumed to have acted in good faith and is not
1862 liable for information contained in the record without a showing
1863 that the employer maliciously falsified the record.

1864 (c) All employees hired or volunteers certified on or after
1865 October 1, 2012, must undergo a state and national criminal
1866 history record check. Supervised visitation programs shall
1867 contract with the department, the court administrator, or the
1868 clerk of court to conduct level 2 background screening under
1869 chapter 435. The cost of fingerprint processing may be borne by
1870 the program or the person subject to the background check. The
1871 department, court administrator, or clerk of court shall review
1872 the criminal history results to determine if an applicant meets
1873 the minimum requirements and is responsible for payment to the
1874 Department of Law Enforcement by invoice to the department, the
1875 court administrator, or the clerk of court or by payment from a
1876 credit card by the applicant or a vendor on behalf of the
1877 applicant. If the department, court administrator, or clerk of
1878 court is unable to conduct the background check, the supervised
1879 visitation program may participate in the Volunteer and Employee
1880 Criminal History System, as authorized by the National Child
1881 Protection Act of 1993, as amended, and s. 943.0542, to obtain
1882 criminal history information.

1883 (d) The security background investigation must ensure that
1884 a person is not hired as an employee or certified as a volunteer
1885 if the person has an arrest awaiting final disposition for, has

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1886 been convicted of, regardless of adjudication, has entered a
1887 plea of nolo contendere or guilty to, or has been adjudicated
1888 delinquent and the record has not been sealed or expunged for,
1889 any offense prohibited under s. 435.04(2).

1890 (e) In analyzing and evaluating the information obtained in
1891 the security background investigation, the program must give
1892 particular emphasis to past activities involving children,
1893 including, but not limited to, child-related criminal offenses
1894 or child abuse. The program has sole discretion in determining
1895 whether to hire or certify a person based on his or her security
1896 background investigation.

1897 (2) A person who is providing supervised visitation or
1898 exchange monitoring services through a supervised visitation
1899 program and who affirms to the court in writing that he or she
1900 abides by the state standards described in s. 753.06 is
1901 presumed, prima facie, to be acting in good faith. Such persons
1902 acting in good faith are immune from civil and criminal
1903 liability with regard to the provision of the services.

1904 Section 31. This act shall take effect October 1, 2012.