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2 An act relating to adoption; amending ss.
3 39.703, 39.802, 39.806, and 39.811, F.S.,
4 relating to the petition and grounds for
5 terminating parental rights and powers of
6 disposition; removing authority of licensed
7 child-placing agencies to file actions to
8 terminate parental rights; amending s. 39.812,
9 F.S.; providing additional requirements for a
10 petition for adoption; prohibiting filing such
11 petition until the order terminating parental
12 rights is final; amending s. 63.022, F.S.;
13 revising legislative intent with respect to
14 adoptions; amending s. 63.032, F.S.; revising
15 definitions; defining "adoption entity," "legal
16 custody," "parent," and "relative"; creating s.
17 63.037, F.S.; providing exemptions from certain
18 provisions of ch. 63, F.S., for adoption
19 proceedings initiated under ch. 39, F.S.;
20 creating s. 63.039, F.S.; providing duties of
21 an adoption entity to prospective adoptive
22 parents; providing sanctions and an award of
23 attorney's fees under certain circumstances;
24 amending s. 63.0425, F.S.; conforming
25 provisions relating to grandparent's right to
26 adopt; amending s. 63.0427, F.S.; allowing
27 biological relatives to have communication or
28 contact with an adoptive child under certain
29 conditions; amending s. 63.052, F.S.; providing
30 for placement of a minor pending adoption;
31 specifying the jurisdiction of the court over a

1 minor placed for adoption; amending s. 63.062,
2 F.S.; specifying additional persons who must
3 consent to an adoption, execute an affidavit of
4 nonpaternity, or receive notice of proceedings
5 to terminate parental rights; providing for
6 form and content of affidavit of nonpaternity;
7 providing for notice of the right to select a
8 witness; providing a form for waiver of venue;
9 amending s. 63.082, F.S.; revising requirements
10 and form for executing a consent to an
11 adoption; making such requirements applicable
12 to affidavit of nonpaternity; providing a
13 revocation period and requirements for
14 withdrawing consent; providing additional
15 disclosure requirements; revising requisite
16 history form to include social history;
17 amending s. 63.085, F.S.; specifying
18 information that must be disclosed to persons
19 seeking to adopt a minor and to the parents;
20 creating s. 63.087, F.S.; requiring that a
21 separate proceeding be conducted by the court
22 to determine whether a parent's parental rights
23 should be terminated; providing for rules,
24 jurisdiction, and venue for such proceedings;
25 providing requirements for the petition and
26 hearing; requiring notification to
27 grandparents; creating s. 63.088, F.S.;
28 providing diligent search and court inquiry
29 requirements for identifying and locating a
30 person who is required to consent to an
31 adoption or receive notice of proceedings to

1 terminate parental rights; providing notice
2 requirements including notice by constructive
3 service; providing that failure to respond or
4 appear constitutes grounds to terminate
5 parental rights pending adoption; creating s.
6 63.089, F.S.; providing hearing procedures for
7 proceedings to terminate parental rights
8 pending adoption; specifying grounds upon which
9 parental rights may be terminated; providing
10 for finding of abandonment; providing for
11 dismissal of petition procedures; providing for
12 postjudgment relief; providing for
13 confidentiality of records; amending s. 63.092,
14 F.S.; providing requirements in an at-risk
15 placement before termination of parental
16 rights; prohibiting placement of minors in
17 homes with certain criminal offenders; amending
18 s. 63.097, F.S.; revising fee requirements to
19 provide for allowable and prohibited fees and
20 costs; amending s. 63.102, F.S.; revising
21 requirements for filing a petition for
22 adoption; providing requirements for prior
23 approval of fees and costs; revising
24 requirements for declaratory statement as to
25 adoption contract; amending s. 63.112, F.S.;
26 revising requirements for form and content of a
27 petition for adoption; amending s. 63.122,
28 F.S.; revising the time requirements for
29 hearing a petition for adoption; amending s.
30 63.125, F.S.; conforming provisions relating to
31 the final home investigation; amending s.

1 63.132, F.S.; revising requirements for
2 affidavit of expenses and receipts; requiring
3 separate court order approving fees, costs, and
4 expenses; amending s. 63.142, F.S.; specifying
5 circumstances under which a judgment
6 terminating parental rights pending adoption is
7 voidable; providing for an evidentiary hearing
8 to determine the minor's placement following a
9 motion to void such a judgment; amending s.
10 63.162, F.S.; conforming provisions relating to
11 confidential records of adoption proceedings;
12 amending s. 63.165, F.S.; requiring that the
13 Department of Children and Family Services
14 maintain certain information in the state
15 registry of adoption information for a
16 specified period; amending s. 63.202, F.S.;
17 conforming provisions relating to agencies
18 authorized to place minors for adoption;
19 amending s. 63.207, F.S.; revising provisions
20 that limit the placement of a minor in another
21 state for adoption; amending s. 63.212, F.S.;
22 revising provisions relating to prohibitions
23 and penalties with respect to adoptions;
24 amending s. 63.219, F.S.; conforming provisions
25 relating to sanctions; creating s. 63.2325,
26 F.S.; providing conditions for revocation of a
27 consent to adoption or withdrawal of an
28 affidavit of nonpaternity; amending ss. 984.03
29 and 985.03, F.S.; conforming cross references;
30 repealing s. 63.072, F.S., relating to persons
31 who may waive required consent to an adoption;

1 requiring that a petition for adoption be
2 governed by the law in effect at the time the
3 petition is filed; providing for severability;
4 creating s. 395.1024, F.S.; requiring a
5 licensed facility to adopt protocol for staff
6 concerning adoption; creating s. 383.310, F.S.;
7 requiring a licensed facility to adopt protocol
8 for staff concerning adoption; providing an
9 effective date.

10

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

12

13 Section 1. Section 39.703, Florida Statutes, is
14 amended to read:15 39.703 Initiation of termination of parental rights
16 proceedings; judicial review.--

17 (1) If, in preparation for any judicial review hearing
18 under this chapter, it is the opinion of the social service
19 agency that the parents of the child have not complied with
20 their responsibilities as specified in the written case plan
21 although able to do so, the department ~~social service agency~~
22 shall state its intent to initiate proceedings to terminate
23 parental rights, unless the social service agency can
24 demonstrate to the court that such a recommendation would not
25 be in the child's best interests. If it is the intent of the
26 department ~~or licensed child-placing agency~~ to initiate
27 proceedings to terminate parental rights, the department ~~or~~
28 ~~licensed child-placing agency~~ shall file a petition for
29 termination of parental rights no later than 3 months after
30 the date of the previous judicial review hearing. If the
31 petition cannot be filed within 3 months, the department ~~or~~

1 ~~licensed child-placing agency~~ shall provide a written report
2 to the court outlining the reasons for delay, the progress
3 made in the termination of parental rights process, and the
4 anticipated date of completion of the process.

5 (2) If, at the time of the 12-month judicial review
6 hearing, a child is not returned to the physical custody of
7 the parents, the department ~~social service agency~~ shall
8 initiate termination of parental rights proceedings under this
9 chapter within 30 days. Only if the court finds that the
10 situation of the child is so extraordinary and that the best
11 interests of the child will be met by such action at the time
12 of the judicial review may the case plan be extended. If the
13 court decides to extend the plan, the court shall enter
14 detailed findings justifying the decision to extend, as well
15 as the length of the extension. A termination of parental
16 rights petition need not be filed if: the child is being cared
17 for by a relative who chooses not to adopt the child but who
18 is willing, able, and suitable to serve as the legal custodian
19 for the child until the child reaches 18 years of age; the
20 court determines that filing such a petition would not be in
21 the best interests of the child; or the state has not provided
22 the child's parent, when reasonable efforts to return a child
23 are required, consistent with the time period in the state's
24 case plan, such services as the state deems necessary for the
25 safe return of the child to his or her home. Failure to
26 initiate termination of parental rights proceedings at the
27 time of the 12-month judicial review or within 30 days after
28 such review does not prohibit initiating termination of
29 parental rights proceedings at any other time.

30 Section 2. Subsections (1) and (2) of section 39.802,
31 Florida Statutes, are amended to read:

1 39.802 Petition for termination of parental rights;
2 filing; elements.--

3 (1) All proceedings seeking an adjudication to
4 terminate parental rights pursuant to this chapter must be
5 initiated by the filing of an original petition by the
6 department, the guardian ad litem, ~~a licensed child-placing~~
7 ~~agency~~, or any other person who has knowledge of the facts
8 alleged or is informed of them and believes that they are
9 true.

10 (2) The form of the petition is governed by the
11 Florida Rules of Juvenile Procedure. The petition must be in
12 writing and signed by the petitioner or, if the department is
13 the petitioner, by an employee of the department, under oath
14 stating the petitioner's good faith in filing the petition.

15 Section 3. Subsection (1) of section 39.806, Florida
16 Statutes, is amended to read:

17 39.806 Grounds for termination of parental rights.--

18 (1) The department, the guardian ad litem, ~~a licensed~~
19 ~~child-placing agency~~, or any person who has knowledge of the
20 facts alleged or who is informed of those ~~said~~ facts and
21 believes that they are true, may petition for the termination
22 of parental rights under any of the following circumstances:

23 (a) When the parent or parents have voluntarily
24 executed a written surrender of the child and consented to the
25 entry of an order giving custody of the child to the
26 department ~~or to a licensed child-placing agency~~ for
27 subsequent adoption and the department ~~or licensed~~
28 ~~child-placing agency~~ is willing to accept custody of the
29 child.

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31

1 1. The surrender document must be executed before two
2 witnesses and a notary public or other person authorized to
3 take acknowledgments.

4 2. The surrender and consent may be withdrawn after
5 acceptance by the department ~~or licensed child placing agency~~
6 only after a finding by the court that the surrender and
7 consent were obtained by fraud or under duress.

8 (b) Abandonment as defined in s. 39.01(1) or when the
9 identity or location of the parent or parents is unknown and
10 cannot be ascertained by diligent search within 60 days.

11 (c) When the parent or parents engaged in conduct
12 toward the child or toward other children that demonstrates
13 that the continuing involvement of the parent or parents in
14 the parent-child relationship threatens the life, safety,
15 well-being, or physical, mental, or emotional health of the
16 child irrespective of the provision of services. Provision of
17 services may be evidenced by proof that services were provided
18 through a previous plan or offered as a case plan from a child
19 welfare agency.

20 (d) When the parent of a child is incarcerated in a
21 state or federal correctional institution and either:

22 1. The period of time for which the parent is expected
23 to be incarcerated will constitute a substantial portion of
24 the period of time before the child will attain the age of 18
25 years;

26 2. The incarcerated parent has been determined by the
27 court to be a violent career criminal as defined in s.
28 775.084, a habitual violent felony offender as defined in s.
29 775.084, or a sexual predator as defined in s. 775.21; has
30 been convicted of first degree or second degree murder in
31 violation of s. 782.04 or a sexual battery that constitutes a

1 capital, life, or first degree felony violation of s. 794.011;
2 or has been convicted of an offense in another jurisdiction
3 which is substantially similar to one of the offenses listed
4 in this paragraph. As used in this section, the term
5 "substantially similar offense" means any offense that is
6 substantially similar in elements and penalties to one of
7 those listed in this subparagraph, and that is in violation of
8 a law of any other jurisdiction, whether that of another
9 state, the District of Columbia, the United States or any
10 possession or territory thereof, or any foreign jurisdiction;
11 or

12 3. The court determines by clear and convincing
13 evidence that continuing the parental relationship with the
14 incarcerated parent would be harmful to the child and, for
15 this reason, that termination of the parental rights of the
16 incarcerated parent is in the best interest of the child.

17 (e) A petition for termination of parental rights may
18 also be filed when a child has been adjudicated dependent, a
19 case plan has been filed with the court, and the child
20 continues to be abused, neglected, or abandoned by the
21 parents. In this case, the failure of the parents to
22 substantially comply for a period of 12 months after an
23 adjudication of the child as a dependent child or the child's
24 placement into shelter care, whichever came first, constitutes
25 evidence of continuing abuse, neglect, or abandonment unless
26 the failure to substantially comply with the case plan was due
27 either to the lack of financial resources of the parents or to
28 the failure of the department to make reasonable efforts to
29 reunify the parent and child. Such 12-month period may begin
30 to run only after the child's placement into shelter care or
31 the entry of a disposition order placing the custody of the

1 child with the department or a person other than the parent
2 and the approval by the court of a case plan with a goal of
3 reunification with the parent, whichever came first.

4 (f) When the parent or parents engaged in egregious
5 conduct or had the opportunity and capability to prevent and
6 knowingly failed to prevent egregious conduct that threatens
7 the life, safety, or physical, mental, or emotional health of
8 the child or the child's sibling.

9 1. As used in this subsection, the term "sibling"
10 means another child who resides with or is cared for by the
11 parent or parents regardless of whether the child is related
12 legally or by consanguinity.

13 2. As used in this subsection, the term "egregious
14 conduct" means abuse, abandonment, neglect, or any other
15 conduct of the parent or parents that is deplorable, flagrant,
16 or outrageous by a normal standard of conduct. Egregious
17 conduct may include an act or omission that occurred only once
18 but was of such intensity, magnitude, or severity as to
19 endanger the life of the child.

20 (g) When the parent or parents have subjected the
21 child to aggravated child abuse as defined in s. 827.03,
22 sexual battery or sexual abuse as defined in s. 39.01, or
23 chronic abuse.

24 (h) When the parent or parents have committed murder
25 or voluntary manslaughter of another child, or a felony
26 assault that results in serious bodily injury to the child or
27 another child, or aided or abetted, attempted, conspired, or
28 solicited to commit such a murder or voluntary manslaughter or
29 felony assault.

30 (i) When the parental rights of the parent to a
31 sibling have been terminated involuntarily.

1 Section 4. Subsections (2) and (8) of section 39.811,
2 Florida Statutes, are amended to read:

3 39.811 Powers of disposition; order of disposition.--

4 (2) If the child is in the custody of the department
5 and the court finds that the grounds for termination of
6 parental rights have been established by clear and convincing
7 evidence, the court shall, by order, place the child in the
8 custody of the department ~~or a licensed child-placing agency~~
9 for the purpose of adoption.

10 (8) If the court terminates parental rights, it shall,
11 in its order of disposition, provide for a hearing, to be
12 scheduled no later than 30 days after the date of disposition,
13 in which the department ~~or the licensed child-placing agency~~
14 shall provide to the court an amended case plan that ~~which~~
15 identifies the permanency goal for the child. Reasonable
16 efforts must be made to place the child in a timely manner in
17 accordance with the permanency plan and to complete whatever
18 steps are necessary to finalize the permanent placement of the
19 child. Thereafter, until the adoption of the child is
20 finalized or the child reaches the age of 18 years, whichever
21 occurs first, the court shall hold hearings at 6-month
22 intervals to review the progress being made toward permanency
23 for the child.

24 Section 5. Section 39.812, Florida Statutes, is
25 amended to read:

26 39.812 Postdisposition relief; petition for
27 adoption.--

28 (1) ~~If A licensed child-placing agency or the~~
29 department ~~which~~ is given custody of a child for subsequent
30 adoption in accordance with this chapter, the department may
31 place the child with an agency as defined in s. 63.032, with a

1 child-caring agency registered under s. 409.176, or in a
2 family home for prospective subsequent adoption.~~, and the~~
3 ~~licensed child-placing agency or~~ The department may thereafter
4 become a party to any proceeding for the legal adoption of the
5 child and appear in any court where the adoption proceeding is
6 pending and consent to the adoption, ~~and that consent alone~~
7 shall in all cases be sufficient.

8 (2) In any subsequent adoption proceeding, the parents
9 are ~~shall not be~~ entitled to any notice of the proceeding and
10 are not thereof, ~~nor shall they be~~ entitled to knowledge at
11 any time after the order terminating parental rights is
12 entered of the whereabouts of the child or of the identity or
13 location of any person having the custody of or having adopted
14 the child, except as provided by order of the court pursuant
15 to this chapter or chapter 63. ~~and~~ In any habeas corpus or
16 other proceeding involving the child brought by any parent of
17 the child, an ~~no~~ agent or contract provider of the ~~licensed~~
18 ~~child-placing agency or~~ department may not ~~shall~~ be compelled
19 to divulge that information, but may be compelled to produce
20 the child before a court of competent jurisdiction if the
21 child is still subject to the guardianship of the ~~licensed~~
22 ~~child-placing agency or~~ department.

23 (3) The entry of the custody order to the department
24 does ~~or licensed child-placing agency shall~~ not entitle the
25 ~~licensed child-placing agency or~~ department to guardianship of
26 the estate or property of the child, but the ~~licensed~~
27 ~~child-placing agency or~~ department shall be the guardian of
28 the person of the child.

29 (4) The court shall retain jurisdiction over any child
30 placed in the custody of ~~for whom custody is given to a~~
31 ~~licensed child-placing agency or~~ to the department until the

1 child is adopted. After custody of a child for subsequent
2 adoption has been given to ~~an agency or~~ the department, the
3 court has jurisdiction for the purpose of reviewing the status
4 of the child and the progress being made toward permanent
5 adoptive placement. As part of this continuing jurisdiction,
6 for good cause shown by the guardian ad litem for the child,
7 the court may review the appropriateness of the adoptive
8 placement of the child.

9 (5) The petition for adoption must be filed in the
10 division of the circuit court which entered the judgment
11 terminating parental rights, unless a motion for change of
12 venue is granted pursuant to s. 47.122. A copy of the consent
13 executed by the department as required under s. 63.062(7) must
14 be attached to the petition. The petition must be accompanied
15 by a form provided by the department which details the social
16 and medical history of the child and each parent and includes
17 the social security number and date of birth for each parent,
18 if such information is available or readily obtainable. The
19 person seeking to adopt the child may not file a petition for
20 adoption until the judgment terminating parental rights
21 becomes final. An adoption proceeding under this subsection is
22 governed by chapter 63, as limited under s. 63.037.

23 Section 6. Section 63.022, Florida Statutes, is
24 amended to read:

25 63.022 Legislative intent.--

26 (1) It is the intent of the Legislature to protect and
27 promote the well-being of persons being adopted and their
28 birth and adoptive parents and to provide to all children who
29 can benefit by it a permanent family life, and, whenever
30 possible, to maintain sibling groups.

31

1 (2) The basic safeguards intended to be provided by
2 this chapter act are that:

3 (a) The minor child is legally free for adoption.

4 (b) The required persons consent to the adoption or
5 the parent-child relationship is terminated by judgment of the
6 court.

7 (c) The required social studies are completed and the
8 court considers the reports of these studies prior to judgment
9 on adoption petitions.

10 (d) All placements of minors for adoption are reported
11 to the Department of Children and Family Services.

12 (e) A sufficient period of time elapses during which
13 the minor child has lived within the proposed adoptive home
14 under the guidance of the department, a child-caring agency
15 registered under s. 409.176, or a licensed child-placing
16 agency.

17 (f) All expenditures by adoption entities
18 ~~intermediaries~~ placing, and persons independently adopting, a
19 minor are reported to the court and become a permanent record
20 in the file of the adoption proceedings.

21 (g) Social and medical information concerning the
22 minor child and the ~~birth~~ parents is furnished by the ~~birth~~
23 parent when available and filed with the court before a final
24 hearing on a petition to terminate parental rights pending
25 adoption consent to the adoption when a minor is placed by an
26 intermediary.

27 (h) A new birth certificate is issued after entry of
28 the adoption judgment.

29 (i) At the time of the hearing, the court may is
30 ~~authorized to~~ order temporary substitute care when it
31 determines that the minor is in an unsuitable home.

1 (j) The records of all proceedings concerning custody
2 and adoption of a minor children are confidential and exempt
3 from ~~the provisions of~~ s. 119.07(1), except as provided in s.
4 63.162.

5 (k) The ~~birth~~ parent, the prospective adoptive parent,
6 and the minor child receive, at a minimum, ~~the same or similar~~
7 safeguards, guidance, counseling, and supervision required in
8 this chapter in an intermediary adoption as they receive in an
9 ~~agency or department adoption.~~

10 (l) In all matters coming before the court under
11 ~~pursuant to this chapter act~~, the court shall enter such
12 orders as it deems necessary and suitable to promote and
13 protect the best interests of the person to be adopted.

14 (m) In dependency cases initiated by the department,
15 where termination of parental rights occurs, and siblings are
16 separated despite diligent efforts of the department,
17 continuing postadoption communication or contact among the
18 siblings may be ordered by the court if found to be in the
19 best interests of the children.

20 Section 7. Section 63.032, Florida Statutes, is
21 amended to read:

22 63.032 Definitions.--As used in this chapter act,
23 ~~unless the context otherwise requires,~~ the term:

24 (1)~~(14)~~ "Abandoned" means a situation in which the
25 parent or person having legal custody ~~legal custodian~~ of a
26 child, while being able, makes no provision for the child's
27 support and makes no effort to communicate with the child,
28 which situation is sufficient to evince a willful rejection of
29 parental obligations. If, in the opinion of the court, the
30 efforts of such parent or person having legal custody of the
31 child ~~legal custodian~~ to support and communicate with the

1 child are only marginal efforts that do not evince a settled
2 purpose to assume all parental duties, the court may declare
3 the child to be abandoned. In making this decision, the court
4 may consider the conduct of a father towards the child's
5 mother during her pregnancy.

6 (2)~~(10)~~ "Adoption" means the act of creating the legal
7 relationship between parent and child where it did not exist,
8 thereby declaring the child to be legally the child of the
9 adoptive parents and their heir at law and entitled to all the
10 rights and privileges and subject to all the obligations of a
11 child born to such adoptive parents in lawful wedlock.

12 (3) "Adoption entity" means the department, an agency,
13 a child-caring agency registered under s. 409.176, or an
14 intermediary.

15 (4)~~(5)~~ "Adult" means a person who is not a minor.

16 (5)~~(7)~~ "Agency" means any child-placing agency
17 licensed by the department pursuant to s. 63.202 to place
18 minors for adoption.

19 (6)~~(2)~~ "Child" means a son or daughter, whether by
20 birth or adoption.

21 (7)~~(3)~~ "Court" means any circuit court of this state
22 and, when the context requires, the court of any state that is
23 empowered to grant petitions for adoption.

24 (8)~~(1)~~ "Department" means the Department of Children
25 and Family Services.

26 (9)~~(8)~~ "Intermediary" means an attorney ~~or physician~~
27 who is licensed or authorized to practice in this state and
28 who is placing or intends to place a child for adoption or,
29 for the purpose of adoptive placements of children from out of
30 state with citizens of this state, a child-placing agency
31 licensed in another state that is qualified by the department.

1 (10) "Legal custody" has the meaning ascribed in s.
2 39.01.

3 (11)~~(4)~~ "Minor" means a person under the age of 18
4 years.

5 (12) "Parent" has the same meaning ascribed in s.
6 39.01.

7 (13)~~(6)~~ "Person" includes a natural person,
8 corporation, government or governmental subdivision or agency,
9 business trust, estate, trust, partnership, or association,
10 and any other legal entity.

11 (14) "Relative" has the same meaning ascribed in s.
12 39.01.

13 (15)~~(9)~~ "To place" or "placement" means the process of
14 a person giving a child up for adoption and the prospective
15 parents receiving and adopting the child, and includes all
16 actions by any person or adoption entity ~~agency~~ participating
17 in the process.

18 (16)~~(13)~~ "Primarily lives and works outside Florida"
19 means anyone who does not meet the definition of "primary
20 residence and place of employment in Florida."

21 (17)~~(12)~~ "Primary residence and place of employment in
22 Florida" means a person lives and works in this state at least
23 6 months of the year and intends to do so for the foreseeable
24 future or military personnel who designate Florida as their
25 place of residence in accordance with the Soldiers' and
26 Sailors' Civil Relief Act of 1940 or employees of the United
27 States Department of State living in a foreign country who
28 designate Florida as their place of residence.

29 (18)~~(11)~~ "Suitability of the intended placement"
30 includes the fitness of the intended placement, with primary
31 consideration being given to the welfare of the child; the

1 fitness and capabilities of the adoptive parent or parents to
2 function as parent or parents for a particular child; any
3 familial relationship between the child and the prospective
4 placement; and the compatibility of the child with the home in
5 which the child is intended to be placed.

6 Section 8. Section 63.037, Florida Statutes, is
7 created to read:

8 63.037 Proceedings applicable to cases resulting from
9 a termination of parental rights under chapter 39.--A case in
10 which a minor becomes available for adoption after the
11 parental rights of each parent have been terminated by a
12 judgment entered pursuant to chapter 39 shall be governed by
13 s. 39.812 and this chapter. Adoption proceedings initiated
14 under chapter 39 are exempt from the following provisions of
15 this chapter: disclosure requirements for the adoption entity
16 provided in s. 63.085; general provisions governing
17 termination of parental rights pending adoption provided in s.
18 63.087; notice and service provisions governing termination of
19 parental rights pending adoption provided in s. 63.088; and
20 procedures for terminating parental rights pending adoption
21 provided in s. 63.089.

22 Section 9. Section 63.039, Florida Statutes, is
23 created to read:

24 63.039 Duty of adoption entity to prospective adoptive
25 parents; sanctions.--

26 (1) An adoption entity placing a minor for adoption
27 has an affirmative duty to follow the requirements of this
28 chapter and specifically the following provisions, which
29 protect and promote the well-being of persons being adopted
30 and their parents and prospective adoptive parents by
31

- 1 promoting certainty, finality, and permanency for such
2 persons. The adoption entity must:
- 3 (a) Provide written initial disclosure to the
4 prospective adoptive parent at the time and in the manner
5 required under s. 63.085.
- 6 (b) Provide written initial and postbirth disclosure
7 to the parent at the time and in the manner required under s.
8 63.085.
- 9 (c) When a written consent for adoption is obtained,
10 obtain the consent at the time and in the manner required
11 under s. 63.082.
- 12 (d) When a written consent or affidavit of
13 nonpaternity for adoption is obtained, obtain a consent to
14 adoption or affidavit of nonpaternity that contains the
15 language required under s. 63.062 or s. 63.082.
- 16 (e) Include in the petition to terminate parental
17 rights pending adoption all information required under s.
18 63.087(6)(e) and (f).
- 19 (f) Obtain and file the affidavit of inquiry pursuant
20 to s. 63.088(3), if the required inquiry is not conducted
21 orally in the presence of the court.
- 22 (g) When the identity of a person whose consent to
23 adoption is necessary under this chapter is known but the
24 location of such a person is unknown, conduct the diligent
25 search and file the affidavit required under s. 63.088(4).
- 26 (h) Serve the petition and notice of hearing to
27 terminate parental rights pending adoption at the time and in
28 the manner required by s. 63.088.
- 29 (i) Obtain the written waiver of venue required under
30 s. 63.062 in cases involving a child younger than 6 months of
31 age in which venue for the termination of parental rights will

1 be located in a county other than the county where the parent
2 whose rights are to be terminated resides.

3 (2) If a court finds that a consent to adoption or an
4 affidavit of nonpaternity taken under this chapter was
5 obtained by fraud or under duress attributable to the adoption
6 entity, the court must award all sums paid by the prospective
7 adoptive parents or on their behalf in anticipation of or in
8 connection with the adoption. The court may also award
9 reasonable attorney's fees and costs incurred by the
10 prospective adoptive parents in connection with the adoption
11 and any litigation related to placement or adoption of a
12 minor. The court must award reasonable attorney's fees and
13 costs, if any, incurred by the person whose consent or
14 affidavit was obtained by fraud or under duress. Any award
15 under this subsection to the prospective adoptive parents or
16 to the person whose consent or affidavit was obtained by fraud
17 or under duress must be paid directly to them by the adoption
18 entity or by any applicable insurance carrier on behalf of the
19 adoption entity.

20 (3) If a person whose consent to an adoption is
21 required under s. 63.062 prevails in an action to set aside a
22 judgment terminating parental rights pending adoption, or a
23 judgment of adoption, the court must award reasonable
24 attorney's fees and costs to the prevailing party. An award
25 under this subsection must be paid by the adoption entity or
26 by any applicable insurance carrier on behalf of the adoption
27 entity if the court finds that the acts or omissions of the
28 entity were the basis for the court's order granting relief to
29 the prevailing party.

30 (4) Within 30 days after the date that the order was
31 issued, the clerk of the court must forward to:

1 (a) The Florida Bar any order that imposes sanctions
2 under this section against an attorney acting as an adoption
3 entity.

4 (b) The Department of Children and Family Services any
5 order that imposes sanctions under this section against a
6 licensed child-placing agency or a child-placing agency
7 licensed in another state that is qualified by the department.

8 (c) The entity under s. 409.176 that certifies
9 child-caring agencies any order that imposes sanctions under
10 this section against a child-caring agency registered under s.
11 409.176.

12 Section 10. Subsection (1) of section 63.0425, Florida
13 Statutes, is amended to read:

14 63.0425 Grandparent's right to adopt.--

15 (1) When a child who has lived with a grandparent for
16 at least 6 months is placed for adoption, the adoption entity
17 ~~agency or intermediary~~ handling the adoption shall notify that
18 grandparent of the impending adoption before the petition for
19 adoption is filed. If the grandparent petitions the court to
20 adopt the child, the court shall give first priority for
21 adoption to that grandparent.

22 Section 11. Section 63.0427, Florida Statutes, is
23 amended to read:

24 63.0427 Adopted minor's right to continued
25 communication or contact with siblings.--

26 (1) A child whose parents have had their parental
27 rights terminated and whose custody has been awarded to the
28 department pursuant to s. 39.811, and who is the subject of a
29 petition for adoption under this chapter, shall have the right
30 to have the court consider the appropriateness of postadoption
31 communication or contact, including, but not limited to,

1 visits, letters and cards, or telephone calls, with his or her
2 siblings or, upon agreement of the adoptive parents, other
3 specified biological relatives who are not included in the
4 petition for adoption. The court shall determine if the best
5 interests of the child support such continued communication or
6 contact and shall consider the following in making such
7 determination:

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

9 (b) Recommendations of the department, the foster
10 parents if other than the adoptive parents, and the guardian
11 ad litem.

12 (c) Statements of prospective adoptive parents.

13 (d) Any other information deemed relevant and material
14 by the court.

15

16 If the court determines that the child's best interests will
17 be served by postadoption communication or contact with any
18 sibling or, upon agreement of the adoptive parents, other
19 specified biological relatives, the court shall so order,
20 stating the nature and frequency for the communication or
21 contact. This order shall be made a part of the final adoption
22 order, but in no event shall continuing validity of the
23 adoption be contingent upon such postadoption communication or
24 contact, nor shall the ability of the adoptive parents and
25 child to change residence within or outside the State of
26 Florida be impaired by such communication or contact.

27 (2) Notwithstanding the provisions of s. 63.162, the
28 adoptive parent may petition for review at any time of a
29 sibling's or other specified biological relatives'~~sibling~~
30 communication or contact ordered pursuant to subsection (1),
31 if the adoptive parent believes that the best interests of the

1 adopted child are being compromised, and the court shall have
2 authority to order the communication or contact to be
3 terminated, or to order such conditions in regard to
4 communication or contact as the court deems to be in the best
5 interests of the adopted child. As part of the review
6 process, the court may order the parties to engage in
7 mediation. The department shall not be required to be a party
8 to such review.

9 Section 12. Section 63.052, Florida Statutes, is
10 amended to read:

11 63.052 Guardians designated; proof of commitment.--

12 (1) For minors who have been placed for adoption with
13 and permanently committed to an agency as defined in s. 63.032
14 or a child-caring agency registered under s. 409.176, such the
15 agency shall be the guardian of the person of the minor ~~child~~;
16 for those who have been placed for adoption with and
17 permanently committed to the department, the department shall
18 be the guardian of the person of the minor ~~child~~.

19 (2) For minors who have been voluntarily surrendered
20 to an intermediary through an execution of consent to
21 adoption, the intermediary shall be responsible for the minor
22 ~~child~~ until the time a court orders preliminary approval of
23 placement of the minor ~~child~~ in the prospective adoptive home,
24 at which time the prospective adoptive parents become
25 guardians pending finalization of adoption. Until a court has
26 terminated parental rights pending adoption and has ordered
27 preliminary approval of placement of the minor in the adoptive
28 home, the minor must be placed in the care of a relative as
29 defined in s. 39.01, in foster care as defined in s. 39.01, or
30 in the care of a prospective adoptive home. No minor shall be
31 placed in a prospective adoptive home until that home has

1 received a favorable preliminary home study by a licensed
2 child-placing agency, a licensed professional, or an agency,
3 as provided in s. 63.092, within 1 year before such placement
4 in the prospective home. Temporary placement in the
5 prospective home with the prospective adoptive parents does
6 not give rise to a presumption that the parental rights of the
7 parents will subsequently be terminated.

8 (2) For minors who have been placed for adoption with
9 or voluntarily surrendered to an agency, but have not been
10 permanently committed to the agency, the agency shall have the
11 responsibility and authority to provide for the needs and
12 welfare for such minors. For those minors placed for adoption
13 with or voluntarily surrendered to the department, but not
14 permanently committed to the department, the department shall
15 have the responsibility and authority to provide for the needs
16 and welfare for such minors. The adoption entity may
17 ~~department, an intermediary, or a licensed child-placing~~
18 ~~agency has the authority to~~ authorize all appropriate medical
19 care for a minor ~~the children~~ who has ~~have~~ been placed for
20 adoption with or voluntarily surrendered to the adoption
21 entity ~~them~~. The provisions of s. 627.6578 shall remain in
22 effect notwithstanding the guardianship provisions in this
23 section.

24 (3) If a minor is surrendered to an intermediary for
25 subsequent adoption and a suitable prospective adoptive home
26 is not available pursuant to s. 63.092 at the time the minor
27 is surrendered to the intermediary or, if the minor is a
28 newborn admitted to a licensed hospital or birth center, at
29 the time the minor is discharged from the hospital or birth
30 center, the minor must be placed in foster care, ~~the~~

31

1 ~~intermediary shall be responsible for the child~~ until such a
2 suitable prospective adoptive home is available.

3 (4) If a minor child is voluntarily surrendered to an
4 adoption entity intermediary for subsequent adoption and the
5 adoption does not become final within 180 days, the adoption
6 entity intermediary must report to the court on the status of
7 the minor child and the court may at that time proceed under
8 s. 39.701 or take action reasonably necessary to protect the
9 best interest of the minor child.

10 (5) The recital in the written consent given by the
11 department that the minor child sought to be adopted has been
12 permanently committed to the department shall be prima facie
13 proof of such commitment. The recital in the written consent
14 given by a licensed child-placing agency or the declaration in
15 an answer or recommendation filed by a licensed child-placing
16 agency that the minor child has been permanently committed and
17 the child-placing agency is duly licensed by the department
18 shall be prima facie proof of such commitment and of such
19 license.

20 (6) Unless otherwise authorized by law, the department
21 is not responsible for expenses incurred by other adoption
22 entities licensed child-placing agencies or intermediaries
23 participating in placement of a minor child for the purposes
24 of adoption.

25 (7) The court retains jurisdiction of a minor who has
26 been placed for adoption until the adoption is final. After a
27 minor is placed with an adoption entity or prospective
28 adoptive parent, the court may review the status of the minor
29 and the progress toward permanent adoptive placement. As part
30 of this continuing jurisdiction, for good cause shown by a
31 person whose consent to an adoption is required under s.

1 63.062, the adoption entity, the parents, persons having legal
2 custody of the minor, persons with custodial or visitation
3 rights to the minor, persons entitled to notice pursuant to
4 the Uniform Child Custody Jurisdiction Act or the Indian Child
5 Welfare Act, or upon the court's own motion, the court may
6 review the appropriateness of the adoptive placement of the
7 minor.

8 Section 13. Section 63.062, Florida Statutes, is
9 amended to read:

10 63.062 Persons required to consent to adoption;
11 affidavit of nonpaternity; waiver of venue.--

12 (1) Unless supported by one or more of the grounds
13 enumerated under s. 63.089(3)~~consent is excused by the court,~~
14 a petition to terminate parental rights pending adoption ~~adopt~~
15 ~~a minor~~ may be granted only if written consent has been
16 executed as provided in s. 63.082 after the birth of the minor
17 or notice has been served under s. 63.088 to ~~by:~~

18 (a) The mother of the minor.

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

20 1. The minor was conceived or born while the father
21 was married to the mother;~~-~~

22 2. The minor is his child by adoption; or-

23 3. The minor has been established by court proceeding
24 to be his child.

25 (c) If there is no father as set forth in paragraph
26 (b), any man established to be the father of the child by
27 scientific tests that are generally acceptable within the
28 scientific community to show a probability of paternity.

29 (d) If there is no father as set forth in paragraph
30 (b) or paragraph (c), any man who the mother has reason to
31 believe may be the father of the minor and who:

1 ~~1.4. He~~ Has acknowledged in writing, signed in the
2 presence of a competent witness, that he is the father of the
3 minor and has filed such acknowledgment with the Office of
4 Vital Statistics of the Department of Health;

5 ~~2.5. He~~ Has provided, or has attempted to provide, the
6 child or the mother during her pregnancy with support in a
7 repetitive, customary manner; or

8 3. Has been identified by the birth mother as a person
9 she has reason to believe may be the father of the minor in an
10 action to terminate parental rights pending adoption pursuant
11 to this chapter.

12 (e) Any person who is a party in any pending
13 proceeding in which paternity, custody, or termination of
14 parental rights regarding the minor is at issue.

15 (f) Any father who has provided, or has attempted to
16 provide, the child or the mother during her pregnancy with
17 support in a repetitive, customary manner, if consent has been
18 obtained under paragraph (1)(a) and subparagraph (1)(b)1.

19 ~~(g)(c)~~ The minor, if more than 12 years of age, unless
20 the court in the best interest of the minor dispenses with the
21 minor's consent.

22 (2) Any person whose consent is required under
23 paragraph (1)(c) or paragraph (1)(d) may execute an affidavit
24 of nonpaternity in lieu of a consent under this section and by
25 doing so waives notice to all court proceedings after the date
26 of execution. An affidavit of nonpaternity must be executed as
27 provided in s. 63.082. The person executing the affidavit must
28 receive disclosure under s. 63.085 prior to signing the
29 affidavit.

30 (3) A person who signs a consent to adoption or an
31 affidavit of nonpaternity must be given reasonable notice of

1 his or her right to select a person who does not have an
2 employment, professional, or personal relationship with the
3 adoption entity or the prospective adoptive parents to be
4 present when the consent to adoption or affidavit of
5 nonpaternity is executed and to sign the consent or affidavit
6 as a witness.

7 (4) An affidavit of nonpaternity must be in
8 substantially the following form:

9
10 AFFIDAVIT OF NONPATERNITY

11
12 1. I have personal knowledge of the facts
13 stated in this affidavit.

14 2. I have been told that has a
15 child. I shall not establish or claim paternity
16 for this child, whose name is ... and whose
17 date of birth is

18 3. The child referenced in this affidavit
19 was not conceived or born while the birth
20 mother was married to me. I AM NOT MARRIED TO
21 THE BIRTH MOTHER, nor do I intend to marry the
22 birth mother.

23 4. With respect to the child referenced
24 in this affidavit, I have not provided the
25 birth mother with child support or prebirth
26 support; I have not provided her with prenatal
27 care or assisted her with medical expenses; I
28 have not provided the birth mother or her child
29 or unborn child with support of any kind, nor
30 do I intend to do so.

31

1 5. I have no interest in assuming the
2 responsibilities of parenthood for this child.
3 I will not acknowledge in writing that I am the
4 father of this child or institute court
5 proceedings to establish the child as mine.

6 6. I do not object to any decision or
7 arrangements makes regarding this child,
8 including adoption.

9 7. I have been told of my right to choose
10 a person who does not have an employment,
11 professional, or personal relationship with the
12 adoption entity or the prospective adoptive
13 parents to be present when this affidavit is
14 executed and to sign it as a witness.

15
16 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
17 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
18 ADOPTION UNDER CHAPTER 63, FLORIDA STATUTES.

19
20 ~~(5)(2)~~ The court may require that consent be executed
21 by:

22 (a) Any person lawfully entitled to custody of the
23 minor; or

24 (b) The court having jurisdiction to determine custody
25 of the minor, if the person having physical custody of the
26 minor has no authority to consent to the adoption.

27 ~~(6)(3)~~ The petitioner must make good faith and
28 diligent efforts as provided under s. 63.088 to notify, and
29 obtain written consent from, the persons required to consent
30 to adoption under this section ~~within 60 days after filing the~~
31 ~~petition. These efforts may include conducting interviews and~~

1 ~~record searches to locate those persons, including verifying~~
2 ~~information related to location of residence, employment,~~
3 ~~service in the Armed Forces, vehicle registration in this~~
4 ~~state, and corrections records.~~

5 ~~(7)(4)~~ If parental rights to the minor have previously
6 been terminated, a licensed child-placing agency, a
7 child-caring agency registered under s. 409.176, or the
8 department with which the minor ~~child~~ has been placed for
9 subsequent adoption may provide consent to the adoption. In
10 such case, no other consent is required.

11 ~~(8)(5)~~ A petition to adopt an adult may be granted if:

12 (a) Written consent to adoption has been executed by
13 the adult and the adult's spouse, if any.

14 (b) Written consent to adoption has been executed by
15 the ~~birth~~ parents, if any, or proof of service of process has
16 been filed, showing notice has been served on the parents as
17 provided in this chapter ~~section~~.

18 ~~(9)(a)~~ In cases involving a child younger than 6
19 months of age in which venue for the termination of parental
20 rights may be located in a county other than where the parent
21 whose rights are to be terminated resides, the adoption entity
22 must obtain, from any party executing an affidavit of
23 nonpaternity or consent, a waiver of venue, which must be
24 filed with the petition and must be in substantially the
25 following form:

26
27 WAIVER OF VENUE
28

29
30 I understand that I have the right to require
31 that the Petition to terminate my parental

1 rights be filed in the county where I reside. I
2 waive such right so that the Petition to
3 Terminate Parental Rights may be filed by
4 ...(adoption entity)... in ...(county name)...
5 county, Florida.

6
7 I understand that, after signing this waiver, I
8 may object to the county where the proceedings
9 to terminate my parental rights will be held by
10 appearing at the hearing or by filing a written
11 objection, on the attached form, with the Clerk
12 of the Court who is located at ...(address of
13 court).... If I later object to this transfer
14 of venue, the case will be transferred to a
15 county in Florida in which I reside if I intend
16 to assert legally recognized grounds to contest
17 a termination of parental rights. If I have no
18 such residence, the case will be transferred to
19 a county where another parent resides or where
20 at least one parent resided at the time of
21 signing a consent or affidavit of nonpaternity.

22
23 (b)1. The waiver of venue must be a separate document
24 containing no consents, disclosures, or other information
25 unrelated to venue.

26 2. Adoption entities must attach to the waiver of
27 venue a form that the parent whose rights are to be terminated
28 may use to request a transfer of venue for the proceeding.
29 This form must contain the intended caption of the action for
30 termination of parental rights and information identifying the

31

1 child which will be sufficient for the clerk to properly file
2 the form upon receipt.

3 3. This form must include a notice that if an adoption
4 entity knows that a parent whose rights will be terminated
5 intends to object to the termination but intentionally files
6 the petition for termination of parental rights in a county
7 which is not consistent with the required venue under such
8 circumstances, the adoption entity shall be responsible for
9 the attorney's fees of the parent contesting the transfer of
10 venue.

11 Section 14. Section 63.082, Florida Statutes, is
12 amended to read:

13 63.082 Execution of consent to adoption or affidavit
14 of nonpaternity; family social and medical history; withdrawal
15 of consent.--

16 (1) Consent to an adoption or an affidavit of
17 nonpaternity shall be executed as follows:

18 (a) If by the person to be adopted, by oral or written
19 statement in the presence of the court or by being
20 acknowledged before a notary public.

21 (b) If by an agency, by affidavit from its authorized
22 representative.

23 (c) If by any other person, in the presence of the
24 court or by affidavit.

25 (d) If by a court, by an appropriate order or
26 certificate of the court.

27 (2) A consent that does not name or otherwise identify
28 the adopting parent is valid if the consent contains a
29 statement by the person consenting that the consent was
30 voluntarily executed and that identification of the adopting
31 parent is not required for granting the consent.

1 (3)(a) The department must provide a consent form and
2 a family social and medical history form to an adoption entity
3 that intermediary who intends to place a child for adoption.
4 ~~The Forms~~ containing, at a minimum, the same information as
5 the forms promulgated by the department ~~completed by the birth~~
6 ~~parents~~ must be attached to the petition to terminate parental
7 rights pending adoption and must contain such biological and
8 sociological information, ~~or such information as to the family~~
9 medical history, regarding the minor child and the ~~birth~~
10 ~~parents,~~ as is required by the department. The information
11 must be incorporated into the final home investigation report
12 specified in s. 63.125. Each parent must ~~The court may also~~
13 ~~require that the birth mother~~ be interviewed by a
14 representative of the department, a licensed child-placing
15 agency, or a licensed professional, pursuant to s. 63.092,
16 before the consent is executed, unless the parent cannot be
17 located or identified. A summary of each interview, or a
18 statement that the parent is unlocated or unidentified, must
19 be filed with the petition to terminate parental rights
20 pending adoption and included in the final home investigation
21 report filed under s. 63.125. The interview may be excused by
22 the court for good cause.

23 (b) Consent executed by ~~the department, by a licensed~~
24 ~~child-placing agency, or by an appropriate order or~~
25 certificate of the court if executed under s. 63.062(5)(b)
26 must be attached to the petition to terminate parental rights
27 pending adoption and ~~must be accompanied by a family medical~~
28 ~~history that includes such information concerning the medical~~
29 ~~history of the child and the birth parents as is available or~~
30 ~~readily obtainable.~~

31

1 (c) If any required consent or social and medical
2 history is unavailable because the person whose consent is
3 required cannot be located or identified, the petition to
4 terminate parental rights pending adoption must be accompanied
5 by the affidavit of diligent search required under s. 63.088.

6 (4)(a) The consent to an adoption or affidavit of
7 nonpaternity shall not ~~for voluntary surrender must~~ be
8 executed before ~~after~~ the birth of the minor.

9 (b) A consent to the adoption of a minor who is to be
10 placed for adoption with identified prospective adoptive
11 parents under s. 63.052, upon the minor's release from a
12 licensed hospital or birth center following birth, shall not
13 be executed sooner than 48 hours after the minor's birth or
14 the day the birth mother has been notified in writing, either
15 on her patient chart or in release paperwork, that she is fit
16 to be released from a licensed hospital or birth center,
17 whichever is earlier. A consent executed under this paragraph
18 is valid upon execution and may be withdrawn only if the court
19 finds that it was obtained by fraud or under duress. The
20 waiting period provided in this paragraph does not apply in
21 any case in which the revocation period in paragraph (4)(c)
22 applies.

23 (c) When the minor to be adopted is not placed
24 pursuant to s. 63.052 upon the minor's release from a licensed
25 hospital or birth center following birth, the consent to
26 adoption may be executed at any time after the birth of the
27 minor. While such consent is valid upon execution, it is
28 subject to the 3-day revocation period under subsection (7) or
29 may be revoked at any time prior to the placement of the minor
30 with the prospective adoptive parents, whichever is later. If
31 a consent has been executed, this subsection may not be

1 construed to provide a birth parent with more than 3 days to
2 revoke that consent once the child has been placed with the
3 prospective adoptive parents. The revocation period provided
4 in this paragraph does not apply in any case in which the
5 waiting period in paragraph (4)(b) applies.

6 (d) The consent to adoption or the affidavit of
7 nonpaternity must be signed ~~child~~, in the presence of two
8 witnesses, and be acknowledged before a notary public who is
9 not signing as one of the witnesses. The notary public must
10 legibly note on the consent or the affidavit the date and time
11 of execution. The witnesses' names must be typed or printed
12 underneath their signatures. The witnesses', ~~and their~~ home or
13 business addresses and social security numbers, driver's
14 license numbers, or state identification card numbers must be
15 included. The absence of a social security number, driver's
16 license number, or state identification card number shall not
17 be deemed to invalidate the consent. The person who signs the
18 consent or the affidavit has the right to have at least one of
19 the witnesses be an individual who does not have an
20 employment, professional, or personal relationship with the
21 adoption entity or the prospective adoptive parents. The
22 adoption entity must give reasonable notice to the person
23 signing the consent or affidavit of the right to select a
24 witness of his or her own choosing. The person who signs the
25 consent or affidavit must acknowledge in writing on the
26 consent or affidavit that such notice was given and indicate
27 the witness, if any, who was selected by the person signing
28 the consent or affidavit. The adoption entity must include its
29 name, address, and telephone number on the consent to adoption
30 or affidavit of nonpaternity.

31

1 (e) A consent to adoption must contain, in at least
2 16-point boldfaced type, an acknowledgment of the parent's
3 rights in substantially the following form:

4
5 CONSENT TO ADOPTION

6
7 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE
8 PERSON WHO DOES NOT HAVE AN EMPLOYMENT,
9 PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH THE
10 ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE
11 PARENTS TO BE PRESENT WHEN THIS AFFIDAVIT IS
12 EXECUTED AND TO SIGN IT AS A WITNESS. YOU MUST
13 ACKNOWLEDGE ON THIS FORM THAT YOU WERE NOTIFIED
14 OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS
15 OR WITNESSES YOU SELECTED, IF ANY.

16
17 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
18 MAY DO ANY OF THE FOLLOWING INSTEAD OF SIGNING
19 THIS CONSENT OR BEFORE SIGNING THIS CONSENT:

- 20
21 1. CONSULT WITH AN ATTORNEY;
22 2. HOLD, CARE FOR, AND FEED THE CHILD;
23 3. PLACE THE CHILD IN FOSTER CARE OR WITH
24 ANY FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
25 WILLING TO CARE FOR THE CHILD;
26 4. TAKE THE CHILD HOME UNLESS OTHERWISE
27 LEGALLY PROHIBITED; AND
28 5. FIND OUT ABOUT THE COMMUNITY RESOURCES
29 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
30 THROUGH WITH THE ADOPTION.

1 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP
2 ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID
3 AND BINDING UNLESS WITHDRAWN AS PERMITTED BY
4 LAW. IF YOU ARE GIVING UP YOUR RIGHTS TO A
5 CHILD WHO IS TO BE PLACED FOR ADOPTION WITH
6 IDENTIFIED PROSPECTIVE ADOPTIVE PARENTS UPON
7 THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR
8 BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD
9 WILL BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT
10 FOR ADOPTION. YOU MUST WAIT 48 HOURS FROM THE
11 TIME OF BIRTH, OR UNTIL THE BIRTH MOTHER HAS
12 BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT
13 CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO
14 BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
15 CENTER, WHICHEVER IS SOONER, BEFORE YOU MAY
16 SIGN THE CONSENT FOR ADOPTION. ONCE YOU HAVE
17 SIGNED THE CONSENT, IT IS VALID AND BINDING AND
18 CANNOT BE WITHDRAWN UNLESS A COURT FINDS THAT
19 IT WAS OBTAINED BY FRAUD OR UNDER DURESS.

20
21 IF YOU ARE GIVING UP YOUR RIGHTS TO A CHILD WHO
22 IS NOT PLACED FOR ADOPTION UPON THE CHILD'S
23 RELEASE FROM A LICENSED HOSPITAL OR BIRTH
24 CENTER FOLLOWING BIRTH, YOU MAY SIGN THE
25 CONSENT AT ANY TIME AFTER THE BIRTH OF THE
26 CHILD. WHILE THE CONSENT IS VALID AND BINDING
27 WHEN SIGNED, YOU HAVE TIME TO CHANGE YOUR MIND.
28 THIS TIME IS CALLED THE REVOCATION PERIOD. WHEN
29 THE REVOCATION PERIOD APPLIES, YOU MAY WITHDRAW
30 YOUR CONSENT FOR ANY REASON AT ANY TIME PRIOR
31 TO THE PLACEMENT OF THE CHILD WITH THE

1 PROSPECTIVE ADOPTIVE PARENTS, OR IF YOU DO IT
2 WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
3 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
4 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
5 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
6 LATER.

7

8 TO WITHDRAW YOUR CONSENT DURING THE REVOCATION
9 PERIOD, YOU MUST:

10 1. NOTIFY THE ADOPTION ENTITY, BY WRITING
11 A LETTER, THAT YOU ARE WITHDRAWING YOUR
12 CONSENT.

13 2. MAIL THE LETTER AT A UNITED STATES
14 POST OFFICE WITHIN 3 BUSINESS DAYS AFTER THE
15 DATE YOU SIGNED THE CONSENT OR 1 BUSINESS DAY
16 AFTER THE DATE OF THE BIRTH MOTHER'S DISCHARGE
17 FROM A LICENSED HOSPITAL OR BIRTH CENTER,
18 WHICHEVER IS LATER. THE TERM "BUSINESS DAY"
19 MEANS ANY DAY ON WHICH THE UNITED STATES POSTAL
20 SERVICE ACCEPTS CERTIFIED MAIL FOR DELIVERY.

21 3. SEND THE LETTER BY CERTIFIED UNITED
22 STATES MAIL WITH RETURN RECEIPT REQUESTED.

23 4. PAY POSTAL COSTS AT THE TIME YOU MAIL
24 THE LETTER.

25 5. KEEP THE CERTIFIED MAIL RECEIPT AS
26 PROOF THAT CONSENT WAS WITHDRAWN IN A TIMELY
27 MANNER.

28

29 TO WITHDRAW YOUR CONSENT PRIOR TO THE PLACEMENT
30 OF THE CHILD WITH THE PROSPECTIVE ADOPTIVE
31 PARENTS, YOU MUST NOTIFY THE ADOPTION ENTITY,

1 IN WRITING BY CERTIFIED UNITED STATES MAIL,
2 RETURN RECEIPT REQUESTED. THE ADOPTION ENTITY
3 YOU SHOULD NOTIFY IS: ... (name of adoption
4 entity)..., ... (address of adoption entity)...,
5 ...(phone number of adoption entity)....

6
7 ONCE THE REVOCATION PERIOD IS OVER, OR THE
8 CHILD HAS BEEN PLACED WITH THE PROSPECTIVE
9 ADOPTIVE PARENTS, WHICHEVER OCCURS LATER, YOU
10 MAY NOT WITHDRAW YOUR CONSENT UNLESS YOU CAN
11 PROVE IN COURT THAT CONSENT WAS OBTAINED BY
12 FRAUD OR UNDER DURESS.

13
14 (5) Before any consent to adoption or affidavit of
15 nonpaternity is executed by a parent, but after the birth of
16 the minor, all requirements of disclosure under s. 63.085 must
17 be met.

18 (6) A copy of each consent signed in an action for
19 termination of parental rights pending adoption must be
20 provided to the person who executed the consent to adoption.
21 The copy must be hand delivered, with a written acknowledgment
22 of receipt signed by the person whose consent is required, or
23 mailed by first class United States mail to the address of
24 record in the court file. If a copy of a consent cannot be
25 provided as required in this subsection, the adoption entity
26 must execute an affidavit stating why the copy of the consent
27 is undeliverable. The original consent and acknowledgment of
28 receipt, an acknowledgment of mailing by the adoption entity,
29 or an affidavit stating why the copy of the consent is
30 undeliverable must be filed with the petition for termination
31 of parental rights pending adoption.

1 (7)(a) A consent that is being withdrawn under
2 paragraph (4)(c) may be withdrawn at any time prior to the
3 minor's placement with the prospective adoptive parents or by
4 notifying the adoption entity in writing by certified United
5 States mail, return receipt requested, not later than 3
6 business days after execution of the consent or 1 business day
7 after the date of the birth mother's discharge from a licensed
8 hospital or birth center, whichever occurs later. As used in
9 this subsection, the term "business day" means any day on
10 which the United States Postal Service accepts certified mail
11 for delivery.

12 (b) Upon receiving written notice from a person of
13 that person's desire to withdraw consent to adoption, the
14 adoption entity must contact the prospective adoptive parent
15 to arrange a time certain for the adoption entity to regain
16 physical custody of the minor, unless, upon a motion for
17 emergency hearing by the adoption entity, the court determines
18 in written findings that placement of the minor with the
19 person withdrawing consent may endanger the minor.

20 (c) If the court finds that such placement may
21 endanger the minor, the court must enter an order regarding
22 continued placement of the minor. The order shall include, but
23 not be limited to, whether temporary placement in foster care
24 is appropriate, whether an investigation by the department is
25 recommended, and whether a relative within the third degree is
26 available for the temporary placement.

27 (d) If the person withdrawing consent claims to be the
28 father of the minor but has not been established to be the
29 father by marriage, court order, or scientific testing, the
30 court may order scientific paternity testing and reserve
31

1 ruling on removal of the minor until the results of such
2 testing have been filed with the court.

3 (e) The adoption entity must return the minor within 3
4 days after notification of the withdrawal of consent or after
5 the court determines that withdrawal is valid and binding upon
6 consideration of an emergency motion, as filed pursuant to
7 paragraph (b), to the physical custody of the person
8 withdrawing consent.

9 (f) Following the revocation period for withdrawal of
10 consent described in paragraph (a), or the placement of the
11 child with the prospective adoptive parents, whichever occurs
12 later, consent may be withdrawn only when the court finds that
13 the consent was obtained by fraud or under duress.

14 (g) An affidavit of nonpaternity may be withdrawn only
15 if the court finds that the affidavit was obtained by fraud or
16 under duress.

17 Section 15. Section 63.085, Florida Statutes, is
18 amended to read:

19 (Substantial rewording of section. See
20 s. 63.085, F.S., for present text.)

21 63.085 Disclosure by adoption entity.--

22 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
23 ADOPTIVE PARENTS.--Not later than 7 days after a person
24 seeking to adopt a minor or a person seeking to place a minor
25 for adoption contacts an adoption entity in person or provides
26 the adoption entity with a mailing address, the entity must
27 provide a written disclosure statement to that person if the
28 entity agrees or continues to work with such person. If an
29 adoption entity is assisting in the effort to terminate the
30 parental rights of a parent who did not initiate the contact
31 with the adoption entity, the written disclosure must be

1 provided within 7 days after that parent is identified and
2 located. For purposes of providing the written disclosure, a
3 person is considered to be seeking to place a minor for
4 adoption when that person has sought information or advice
5 from the adoption entity regarding the option of adoptive
6 placement. The written disclosure statement must be in
7 substantially the following form:

8
9 ADOPTION DISCLOSURE

10
11 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
12 PROVIDED TO ALL PERSONS CONSIDERING ADOPTING A
13 MINOR OR SEEKING TO PLACE A MINOR FOR ADOPTION,
14 TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
15 ADOPTION UNDER FLORIDA LAW:

16
17 1. Under section 63.102, Florida
18 Statutes, the existence of a placement or
19 adoption contract signed by the parent or
20 prospective adoptive parent, prior approval of
21 that contract by the court, or payment of any
22 expenses permitted under Florida law does not
23 obligate anyone to sign a consent or ultimately
24 place a minor for adoption.

25 2. Under sections 63.092 and 63.125,
26 Florida Statutes, a favorable preliminary home
27 study, before the minor may be placed in that
28 home, and a final home investigation, before
29 the adoption becomes final, must be completed.

30 3. Under section 63.082, Florida
31 Statutes, a consent to adoption or affidavit of

1 nonpaternity may not be signed until after the
2 birth of the minor.

3 4. Under section 63.082, Florida
4 Statutes, if the minor is to be placed for
5 adoption with identified prospective adoptive
6 parents upon release from a licensed hospital
7 or birth center following birth, the consent to
8 adoption may not be signed until 48 hours after
9 birth or until the day the birth mother has
10 been notified in writing, either on her patient
11 chart or in release papers, that she is fit to
12 be released from the licensed hospital or birth
13 center, whichever is sooner. The consent to
14 adoption or affidavit of nonpaternity is valid
15 and binding upon execution unless the court
16 finds it was obtained by fraud or under duress.

17 5. Under section 63.082, Florida
18 Statutes, if the minor is not placed for
19 adoption with the prospective adoptive parent
20 upon release from the hospital or birth center
21 following birth, a 3-day revocation period
22 applies during which consent may be withdrawn
23 for any reason by notifying the adoption entity
24 in writing. In order to withdraw consent, the
25 written withdrawal of consent must be mailed at
26 a United States Post Office no later than 3
27 business days after execution of the consent or
28 1 business day after the date of the birth
29 mother's discharge from a licensed hospital or
30 birth center, whichever occurs later. For
31 purposes of mailing the withdrawal of consent,

1 the term "business day" means any day on which
2 the United States Postal Service accepts
3 certified mail for delivery. The letter must be
4 sent by certified United States mail, return
5 receipt requested. Postal costs must be paid at
6 the time of mailing and the receipt should be
7 retained as proof that consent was withdrawn in
8 a timely manner.

9 6. Under section 63.082, Florida
10 Statutes, and notwithstanding the revocation
11 period, the consent may be withdrawn at any
12 time prior to the placement of the child with
13 the prospective adoptive parent, by notifying
14 the adoption entity in writing by certified
15 United States mail, return receipt requested.

16 7. Under section 63.082, Florida
17 Statutes, if an adoption entity timely receives
18 written notice from a person of that person's
19 desire to withdraw consent, the adoption entity
20 must contact the prospective adoptive parent to
21 arrange a time certain to regain physical
22 custody of the child. Absent a court order for
23 continued placement of the child entered under
24 section 63.082, Florida Statutes, the adoption
25 entity must return the minor within 3 days
26 after notification of the withdrawal of consent
27 to the physical custody of the person
28 withdrawing consent. After the revocation
29 period for withdrawal of consent ends, or after
30 the placement of the child with prospective
31 adoptive parent, whichever occurs later, the

1 consent may be withdrawn only if the court
2 finds that the consent was obtained by fraud or
3 under duress.

4 8. Under section 63.082, Florida
5 Statutes, an affidavit of nonpaternity, once
6 executed, may be withdrawn only if the court
7 finds that it was obtained by fraud or under
8 duress.

9 9. Under section 63.082, Florida
10 Statutes, a person who signs a consent to
11 adoption or an affidavit of nonpaternity must
12 be given reasonable notice of his or her right
13 to select a person who does not have an
14 employment, professional, or personal
15 relationship with the adoption entity or the
16 prospective adoptive parents to be present when
17 the consent or affidavit is executed and to
18 sign the consent or affidavit as a witness.

19 10. Under section 63.088, Florida
20 Statutes, specific and extensive efforts are
21 required by law to attempt to obtain the
22 consents required under section 63.062, Florida
23 Statutes. If these efforts are unsuccessful,
24 the court may not enter a judgment terminating
25 parental rights pending adoption until certain
26 requirements have been met.

27 11. Under Florida law, an intermediary
28 may represent the legal interests of only the
29 prospective adoptive parents. Each person whose
30 consent to an adoption is required under
31 section 63.062, Florida Statutes, is entitled

1 to seek independent legal advice and
2 representation before signing any document or
3 surrendering parental rights.

4 12. Under section 63.182, Florida
5 Statutes, an action or proceeding of any kind
6 to vacate, set aside, or otherwise nullify a
7 judgment of adoption or an underlying judgment
8 terminating parental rights pending adoption,
9 on any ground, including duress but excluding
10 fraud, must be filed within 1 year after entry
11 of the judgment terminating parental rights
12 pending adoption. Such an action or proceeding
13 for fraud must be filed within 2 years after
14 entry of the judgment terminating parental
15 rights.

16 13. Under section 63.089, Florida
17 Statutes, a judgment terminating parental
18 rights pending adoption is voidable and any
19 later judgment of adoption of that minor is
20 voidable if, upon the motion of a parent, the
21 court finds that any person knowingly gave
22 false information that prevented the parent
23 from timely making known his or her desire to
24 assume parental responsibilities toward the
25 minor or to exercise his or her parental
26 rights. The motion must be filed with the court
27 that originally entered the judgment. The
28 motion must be filed within a reasonable time,
29 but not later than 2 years after the date the
30 judgment to which the motion is directed was
31 entered.

- 1 14. Under section 63.165, Florida
2 Statutes, the State of Florida maintains a
3 registry of adoption information. Information
4 about the registry is available from the
5 Department of Children and Family Services.
- 6 15. Under section 63.032, Florida
7 Statutes, a court may find that a parent has
8 abandoned his or her child based on conduct
9 during the pregnancy or based on conduct after
10 the child is born. In addition, under section
11 63.089, Florida Statutes, the failure of a
12 parent to respond to notices of proceedings
13 involving his or her child shall result in
14 termination of parental rights of a parent. A
15 lawyer can explain what a parent must do to
16 protect his or her parental rights. Any parent
17 wishing to protect his or her parental rights
18 should act IMMEDIATELY.
- 19 16. Each parent and prospective adoptive
20 parent is entitled to independent legal advice
21 and representation. Attorney information may be
22 obtained from the yellow pages, The Florida
23 Bar's lawyer referral service, and local legal
24 aid offices and bar associations.
- 25 17. Counseling services may be helpful
26 while making a parenting decision. Consult the
27 yellow pages of the telephone directory.
- 28 18. Medical and social services support
29 is available if the parent wishes to retain
30 parental rights and responsibilities. Consult
31 the Department of Children and Family Services.

1 19. Under section 63.039, Florida
2 Statutes, an adoption entity has certain legal
3 responsibilities and may be liable for damages
4 to persons whose consent to an adoption is
5 required or to prospective adoptive parents for
6 failing to materially meet those
7 responsibilities. Damages may also be recovered
8 from an adoption entity if a consent to
9 adoption or affidavit of nonpaternity is
10 obtained by fraud or under duress attributable
11 to an adoption entity.

12 20. Under section 63.097, Florida
13 Statutes, reasonable living expenses of the
14 birth mother may be paid by the prospective
15 adoptive parents and the adoption entity only
16 if the birth mother is unable to pay due to
17 unemployment, underemployment, or disability.
18 The law also allows payment of reasonable and
19 necessary medical expenses, expenses necessary
20 to comply with the requirements of chapter 63,
21 Florida Statutes, court filing expenses, and
22 costs associated with advertising. Certain
23 documented legal, counseling, and other
24 professional fees may be paid. Prior approval
25 of the court is not required until the
26 cumulative total of amounts permitted exceeds
27 \$2,500 in legal or other fees, \$500 in court
28 costs, \$3,000 in expenses, or \$1,500 in
29 cumulative expenses incurred prior to the date
30 the prospective adoptive parent retains the
31

1 adoption entity. The following fees, costs, and
2 expenses are prohibited:

3 a. Any fee or expense that constitutes
4 payment for locating a minor for adoption.

5 b. Any lump-sum payment to the entity
6 which is nonrefundable directly to the payor or
7 which is not itemized on the affidavit.

8 c. Any fee on the affidavit which does
9 not specify the service that was provided and
10 for which the fee is being charged, such as a
11 fee for facilitation or acquisition.

12
13 The court may reduce amounts charged or refund
14 amounts that have been paid if it finds that
15 these amounts were more than what was
16 reasonable or allowed under the law.

17 21. Under section 63.132, Florida
18 Statutes, the adoption entity and the
19 prospective adoptive parents must sign and file
20 with the court a written statement under oath
21 listing all the fees, expenses, and costs made,
22 or agreed to be made, by or on behalf of the
23 prospective adoptive parents and any adoption
24 entity in connection with the adoption. The
25 affidavit must state whether any of the
26 expenses were eligible to be paid for by any
27 other source.

28 22. Under section 63.132, Florida
29 Statutes, the court order approving the money
30 spent on the adoption must be separate from the
31 judgment making the adoption final. The court

1 may approve only certain costs and expenses
2 allowed under section 63.097, Florida Statutes.
3 The court may approve only fees that are
4 allowed under law and that it finds to be
5 "reasonable." A good idea of what is and is not
6 allowed to be paid for in an adoption can be
7 determined by reading sections 63.097 and
8 63.132, Florida Statutes.

9
10 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
11 must obtain a written statement acknowledging receipt of the
12 disclosure required under subsection (1) and signed by the
13 persons receiving the disclosure or, if it is not possible to
14 obtain such an acknowledgment, the adoption entity must
15 execute an affidavit stating why an acknowledgment could not
16 be obtained. If the disclosure was delivered by certified
17 United States mail, return receipt requested, a return receipt
18 signed by the person from whom acknowledgment is required is
19 sufficient to meet the requirements of this subsection. A copy
20 of the acknowledgment of receipt of the disclosure must be
21 provided to the person signing it. A copy of the
22 acknowledgment or affidavit executed by the adoption entity in
23 lieu of the acknowledgment must be maintained in the file of
24 the adoption entity. The original acknowledgment or affidavit
25 must be filed with the court. In the case of a disclosure
26 provided under subsection (1), the original acknowledgment or
27 affidavit must be included in the preliminary home study
28 required in s. 63.092.

29 (3) POSTBIRTH DISCLOSURE TO PARENTS.--Before execution
30 of any consent to adoption by a parent, but after the birth of
31 the minor, all requirements of subsections (1) and (2) for

1 making certain disclosures to a parent and obtaining a written
2 acknowledgment of receipt must be repeated.

3 (4) REVOCATION OF CONSENT.--Failure to meet the
4 requirements of subsections (1)-(3) does not constitute
5 grounds for revocation of a consent to adoption or withdrawal
6 of an affidavit of nonpaternity unless the extent and
7 circumstances of such a failure result in a material failure
8 of fundamental fairness in the administration of due process,
9 or the failure constitutes or contributes materially to fraud
10 or duress in obtaining a consent to adoption or affidavit of
11 nonpaternity.

12 Section 16. Section 63.087, Florida Statutes, is
13 created to read:

14 63.087 Proceeding to terminate parental rights pending
15 adoption; general provisions.--

16 (1) INTENT.--It is the intent of the Legislature that
17 a court determine whether a minor is legally available for
18 adoption through a separate proceeding terminating parental
19 rights prior to the filing of a petition for adoption.

20 (2) GOVERNING RULES.--The Florida Family Law Rules of
21 Procedure govern a proceeding to terminate parental rights
22 pending adoption unless otherwise provided by law.

23 (3) JURISDICTION.--A court of this state which is
24 competent to decide child welfare or custody matters has
25 jurisdiction to hear all matters arising from a proceeding to
26 terminate parental rights pending adoption. All subsequent
27 proceedings for the adoption of the minor, if the petition for
28 termination is granted, must be conducted by the same judge
29 who conducted the termination proceedings, if that judge is
30 still available within the division of the court which
31

1 conducts termination or adoption cases or, if that judge is
2 unavailable, by another judge within the division.

3 (4) VENUE.--

4 (a) A petition to terminate parental rights pending
5 adoption must be filed:

6 1. In the county where the child resided for the
7 previous 6 months;

8 2. If the child is younger than 6 months of age or has
9 not continuously resided in one county for the previous 6
10 months, in the county where the parent resided at the time of
11 the execution of the consent to adoption or the affidavit of
12 nonpaternity;

13 3. If the child is younger than 6 months of age and a
14 waiver of venue has been obtained pursuant to s. 63.062 in the
15 county where the adoption entity is located or, if the
16 adoption entity has more than one place of business, in the
17 county which is located in closest proximity to the county in
18 which the parent whose rights are to be terminated resided at
19 the time of execution of the consent or affidavit of
20 nonpaternity;

21 4. If there is no consent or affidavit of nonpaternity
22 executed by a parent, in the county where the birth mother
23 resides; or

24 5. If neither parent resides in the state, in the
25 county where the adoption entity is located.

26 (b) If a petition for termination of parental rights
27 has been filed and a parent whose rights are to be terminated
28 objects to venue, there must be a hearing in which the court
29 shall determine whether that parent intends to assert legally
30 recognized grounds to contest a termination of parental rights
31 and, if so, the court shall immediately transfer venue to the

1 county where that parent resides, if there is such a county,
2 or, if not, a county where:

3 1. At least one parent whose rights are to be
4 terminated resides;

5 2. At least one parent resided at the time of
6 execution of a consent or affidavit of nonpaternity; or

7 3. The adoption entity is located, if neither
8 subparagraph 1. nor subparagraph 2. applies.

9
10 For purposes of selecting venue, the court shall consider the
11 ease of access to the court for the parent who intends to
12 contest a termination of parental rights.

13 (c) If there is a transfer of venue, the adoption
14 entity or the petitioner must bear the cost of venue transfer.

15
16 For purposes of the hearing under this subsection, witnesses
17 located in another jurisdiction may testify by deposition or
18 testify by telephone, audiovisual means, or other electronic
19 means before a designated court or at another location.
20 Documentary evidence transmitted from another location by
21 technological means that do not produce an original writing
22 may not be excluded from evidence on an objection based on the
23 means of transmission. The court on its own motion may
24 otherwise prescribe the manner in which and the terms upon
25 which the testimony is taken.

26 (5) PREREQUISITE FOR ADOPTION.--A petition for
27 adoption may not be filed until 30 days after the date the
28 judge signed the judgment terminating parental rights pending
29 adoption under this chapter, unless the adoptee is an adult or
30 the minor has been the subject of a judgment terminating
31 parental rights under chapter 39.

1 (6) PETITION.--

2 (a) A proceeding seeking to terminate parental rights
3 pending adoption pursuant to this chapter must be initiated by
4 the filing of an original petition after the birth of the
5 minor.

6 (b) The petition may be filed by a parent or person
7 having legal custody of the minor. The petition may be filed
8 by an adoption entity only if a parent or person having legal
9 custody who has executed a consent to adoption pursuant to s.
10 63.082 consents in writing to the entity filing the petition.
11 The original of such consent must be filed with the petition.

12 (c) The petition must be entitled: "In the Matter of
13 the Termination of Parental Rights for the Proposed Adoption
14 of a Minor Child."

15 (d) A petition to terminate parental rights must be
16 consolidated with a previously filed petition for a
17 declaratory statement filed under s. 63.102. Only one filing
18 fee may be assessed for both the termination of parental
19 rights and declaratory statement petitions.

20 (e) The petition to terminate parental rights pending
21 adoption must be in writing and signed by the petitioner under
22 oath stating the petitioner's good faith in filing the
23 petition. A written consent to adoption, affidavit of
24 nonpaternity, or affidavit of diligent search under s. 63.088,
25 for each person whose consent to adoption is required under s.
26 63.062, must be executed and attached.

27 (f) The petition must include:

28 1. The minor's name, gender, date of birth, and place
29 of birth. The petition must contain all names by which the
30 minor is or has been known, excluding the minor's prospective
31 adoptive name but including the minor's legal name at the time

1 of the filing of the petition, to allow interested parties to
2 the action, including parents, persons having legal custody of
3 the minor, persons with custodial or visitation rights to the
4 minor, and persons entitled to notice pursuant to the Uniform
5 Child Custody Jurisdiction Act or the Indian Child Welfare
6 Act, to identify their own interest in the action.

7 2. If the petition is filed before the day the minor
8 is 6 months old and if the identity or location of the father
9 is unknown, each city in which the mother resided or traveled,
10 in which conception may have occurred, during the 12 months
11 before the minor's birth, including the county and state in
12 which that city is located.

13 3. Unless a consent to adoption or affidavit of
14 nonpaternity executed by each person whose consent is required
15 under s. 63.062 is attached to the petition, the name and the
16 city of residence, including the county and state in which
17 that city is located, of:

18 a. The minor's mother;

19 b. Any man who the mother reasonably believes may be
20 the minor's father; and

21 c. Any person who has legal custody, as defined in s.
22 39.01, of the minor.

23
24 If a required name or address is not known, the petition must
25 so state.

26 4. All information required by the Uniform Child
27 Custody Jurisdiction Act and the Indian Child Welfare Act.

28 5. A statement of the grounds under s. 63.089 upon
29 which the petition is based.

30 6. The name, address, and telephone number of any
31 adoption entity seeking to place the minor for adoption.

1 7. The name, address, and telephone number of the
2 division of the circuit court in which the petition is to be
3 filed.

4 8. A certification of compliance with the requirements
5 of s. 63.0425 regarding notice to grandparents of an impending
6 adoption.

7 (7) ANSWER NOT REQUIRED.--An answer to the petition or
8 any pleading need not be filed by any minor, parent, or person
9 having legal custody of the minor, but any matter that might
10 be set forth in an answer or other pleading may be pleaded
11 orally before the court or filed in writing. However, failure
12 to file a written response or to appear at the hearing on the
13 petition constitutes grounds upon which the court may
14 terminate parental rights. Notwithstanding the filing of any
15 answer or any pleading, any person present at the hearing to
16 terminate parental rights pending adoption whose consent to
17 adoption is required under s. 63.062 must:

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

21 (b) Be given an opportunity to deny the allegations in
22 the petition; and

23 (c) Be given the opportunity to challenge the validity
24 of any consent or affidavit of nonpaternity signed by any
25 person.

26 Section 17. Section 63.088, Florida Statutes, is
27 created to read:

28 63.088 Proceeding to terminate parental rights pending
29 adoption; notice and service; diligent search.--

30 (1) INITIATE LOCATION AND IDENTIFICATION
31 PROCEDURES.--When the location or identity of a person whose

1 consent to an adoption is required but is not known, the
2 adoption entity must begin the inquiry and diligent search
3 process required by this section not later than 7 days after
4 the date on which the person seeking to place a minor for
5 adoption has evidenced in writing to the entity a desire to
6 place the minor for adoption with that entity, or not later
7 than 7 days after the date any money is provided as permitted
8 under this chapter by the adoption entity for the benefit of
9 the person seeking to place a minor for adoption.

10 (2) LOCATION AND IDENTITY KNOWN.--Before the court may
11 determine that a minor is available for adoption, and in
12 addition to the other requirements set forth in this chapter,
13 each person whose consent is required under s. 63.062, who has
14 not executed an affidavit of nonpaternity, and whose location
15 and identity have been determined by compliance with the
16 procedures in this section must be personally served, pursuant
17 to chapter 48, at least 30 days before the hearing with a copy
18 of the petition to terminate parental rights pending adoption
19 and with notice in substantially the following form:

20
21 NOTICE OF PETITION AND HEARING

22 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

23
24 A petition to terminate parental rights pending
25 adoption has been filed. A copy of the petition
26 is being served with this notice. There will be
27 a hearing on the petition to terminate parental
28 rights pending adoption on ... (date) ... at
29 ... (time) ... before ... (judge) ... at ...
30 (location, including complete name and street
31 address of the courthouse) The court has

1 set aside ... (amount of time) ... for this
2 hearing. If you executed a consent to adoption
3 or an affidavit of nonpaternity and a waiver of
4 venue, you have the right to request that the
5 hearing on the petition to terminate parental
6 rights be transferred to the county in which
7 you reside. You may object by appearing at the
8 hearing or filing a written objection with the
9 court.

10

11 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
12 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
13 THE COURT OR TO APPEAR AT THIS HEARING
14 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL
15 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING
16 THE MINOR CHILD.

17

18 (3) REQUIRED INQUIRY.--In proceedings initiated under
19 s. 63.087, the court must conduct an inquiry of the person who
20 is placing the minor for adoption and of any relative or
21 person having legal custody of the minor who is present at the
22 hearing and likely to have the following information regarding
23 the identity of:

24

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

28

29 (b) Any person who has been declared by a court to be
30 the father of the minor;

29

30 (c) Any man with whom the mother was cohabiting at any
31 time when conception of the minor may have occurred;

31

1 (d) Any person the mother has reason to believe may be
2 the father and from whom she has received payments or promises
3 of support with respect to the minor or because of her
4 pregnancy;

5 (e) Any person the mother has named as the father on
6 the birth certificate of the minor or in connection with
7 applying for or receiving public assistance;

8 (f) Any person who has acknowledged or claimed
9 paternity of the minor; and

10 (g) Any person the mother has reason to believe may be
11 the father.

12
13 The information required under this subsection may be provided
14 to the court in the form of a sworn affidavit by a person
15 having personal knowledge of the facts, addressing each
16 inquiry enumerated in this subsection, except that, if the
17 inquiry identifies a father under paragraph (a) or paragraph
18 (b), the inquiry shall not continue further. The inquiry
19 required under this subsection may be conducted before the
20 birth of the minor.

21 (4) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry
22 by the court under subsection (3) identifies any person whose
23 consent to adoption is required under s. 63.062 and who has
24 not executed a consent to adoption or an affidavit of
25 nonpaternity, and the location of the person from whom consent
26 is required is unknown, the adoption entity must conduct a
27 diligent search for that person which must include inquiries
28 concerning:

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

1 (b) The last known employment of the person, including
2 the name and address of the person's employer. Inquiry should
3 be made of the last known employer as to any address to which
4 wage and earnings statements (W-2 forms) of the person have
5 been mailed. Inquiry should be made of the last known employer
6 as to whether the person is eligible for a pension or
7 profit-sharing plan and any address to which pension or other
8 funds have been mailed;

9 (c) Regulatory agencies, including those regulating
10 licensing in the area where the person last resided;

11 (d) Names and addresses of relatives to the extent
12 such can be reasonably obtained from the petitioner or other
13 sources, contacts with those relatives, and inquiry as to the
14 person's last known address. The petitioner shall pursue any
15 leads of any addresses to which the person may have moved.
16 Relatives include, but are not limited to, parents, brothers,
17 sisters, aunts, uncles, cousins, nieces, nephews,
18 grandparents, great-grandparents, former or current in-laws,
19 stepparents, and stepchildren;

20 (e) Information as to whether or not the person may
21 have died and, if so, the date and location;

22 (f) Telephone listings in the area where the person
23 last resided;

24 (g) Inquiries of law enforcement agencies in the area
25 where the person last resided;

26 (h) Highway patrol records in the state where the
27 person last resided;

28 (i) Department of Corrections records in the state
29 where the person last resided;

30 (j) Hospitals in the area where the person last
31 resided;

1 (k) Records of utility companies, including water,
2 sewer, cable television, and electric companies, in the area
3 where the person last resided;

4 (l) Records of the Armed Forces of the United States
5 as to whether there is any information as to the person;

6 (m) Records of the tax assessor and tax collector in
7 the area where the person last resided;

8 (n) Search of one Internet databank locator service;
9 and

10 (o) Information held by all medical providers who
11 rendered medical treatment or care to the birth mother and
12 child, including the identity and location information of all
13 persons listed by the mother as being financially responsible
14 for the uninsured expenses of treatment or care and all
15 persons who made any such payments.

16
17 Any person contacted by a petitioner or adoption entity who is
18 requesting information pursuant to this subsection must
19 release the requested information to the petitioner or
20 adoption entity, except when prohibited by law, without the
21 necessity of a subpoena or court order. An affidavit of
22 diligent search executed by the petitioner and the adoption
23 entity must be filed with the court confirming completion of
24 each aspect of the diligent search enumerated in this
25 subsection and specifying the results. The diligent search
26 required under this subsection may be conducted before the
27 birth of the minor.

28 (5) LOCATION UNKNOWN OR IDENTITY UNKNOWN.--This
29 subsection only applies if, as to any person whose consent is
30 required under s. 63.062 and who has not executed an affidavit
31 of nonpaternity, the location or identity of the person is

1 unknown and the inquiry under subsection (3) fails to identify
2 the person or the diligent search under subsection (4) fails
3 to locate the person. The unlocated or unidentified person
4 must be served notice under subsection (2) by constructive
5 service in the manner provided in chapter 49 in each county
6 identified in the petition, as provided in s. 63.087(6). The
7 notice, in addition to all information required in the
8 petition under s. 63.087(6) and chapter 49, must contain a
9 physical description, including, but not limited to, age,
10 race, hair and eye color, and approximate height and weight of
11 the minor's mother and of any person the mother reasonably
12 believes may be the father; the minor's date of birth; and any
13 date and city, including the county and state in which the
14 city is located, in which conception may have occurred. If any
15 of the facts that must be included in the notice under this
16 subsection are unknown and cannot be reasonably ascertained,
17 the notice must so state.

18 Section 18. Section 63.089, Florida Statutes, is
19 created to read:

20 63.089 Proceeding to terminate parental rights pending
21 adoption; hearing; grounds; dismissal of petition; judgment.--

22 (1) HEARING.--The court may terminate parental rights
23 pending adoption only after a full evidentiary hearing.

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

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

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

30 2. An affidavit of nonpaternity under s. 63.082 has
31 been executed and filed with the court; or

1 3. Notice has been provided under ss. 63.087 and
2 63.088;

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

5 1. At least 30 days have elapsed since the date of
6 personal service and an affidavit of service has been filed
7 with the court;

8 2. At least 60 days have elapsed since the first date
9 of publication of constructive service and an affidavit of
10 service has been filed with the court; or

11 3. An affidavit of nonpaternity which affirmatively
12 waives service has been executed and filed with the court;

13 (c) The minor named in the petition has been born; and

14 (d) The petition contains all information required
15 under s. 63.087 and all affidavits of inquiry, diligent
16 search, and service required under s. 63.088 have been
17 obtained and filed with the court.

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

24 (a) Has executed a valid consent that has not been
25 withdrawn under s. 63.082 and the consent was obtained
26 according to the requirements of this chapter;

27 (b) Has executed an affidavit of nonpaternity and the
28 affidavit was obtained according to the requirements of this
29 chapter;

30 (c) Has been properly served notice of the proceeding
31 in accordance with the requirements of this chapter and has

1 failed to file a written answer or appear at the evidentiary
2 hearing resulting in the judgment terminating parental rights
3 pending adoption;

4 (d) Has been properly served notice of the proceeding
5 in accordance with the requirements of this chapter and has
6 been determined under subsection (4) to have abandoned the
7 minor as defined in s. 63.032;

8 (e) Is a parent of the person to be adopted, which
9 parent has been judicially declared incapacitated with
10 restoration of competency found to be medically improbable;

11 (f) Is a person who has legal custody of the person to
12 be adopted, other than a parent, who has failed to respond in
13 writing to a request for consent for a period of 60 days or,
14 after examination of his or her written reasons for
15 withholding consent, is found by the court to be withholding
16 his or her consent unreasonably;

17 (g) Has been properly served notice of the proceeding
18 in accordance with the requirements of this chapter, but has
19 been found by the court, after examining written reasons for
20 the withholding of consent, to be unreasonably withholding his
21 or her consent; or

22 (h) Is the spouse of the person to be adopted who has
23 failed to consent, and the failure of the spouse to consent to
24 the adoption is excused by reason of prolonged and unexplained
25 absence, unavailability, incapacity, or circumstances that are
26 found by the court to constitute unreasonable withholding of
27 consent.

28 (4) FINDING OF ABANDONMENT.--A finding of abandonment
29 resulting in a termination of parental rights must be based
30 upon clear and convincing evidence. A finding of abandonment
31 may not be based upon a lack of emotional support to a birth

1 mother during her pregnancy, but may be based upon emotional
2 abuse to a birth mother during her pregnancy.

3 (a) In making a determination of abandonment at a
4 hearing for termination of parental rights pursuant to this
5 chapter, the court must consider, among other relevant factors
6 not inconsistent with this section:

7 1. Whether the actions alleged to constitute
8 abandonment demonstrate a willful disregard for the safety or
9 welfare of the child or unborn child;

10 2. Whether other persons prevented the person alleged
11 to have abandoned the child from making the efforts referenced
12 in this subsection;

13 3. Whether the person alleged to have abandoned the
14 child, while being able, refused to provide financial support
15 after such person was informed he may be the father of the
16 child;

17 4. Whether the person alleged to have abandoned the
18 child, while being able, refused to pay for medical treatment
19 when such payment was requested by the person having legal
20 custody of the child and those expenses were not covered by
21 insurance or other available sources;

22 5. Whether the amount of support provided or medical
23 expenses paid was appropriate, taking into consideration the
24 needs of the child and relative means and resources available
25 to the person alleged to have abandoned the child and
26 available to the person having legal custody of the child
27 during the period the child allegedly was abandoned; and

28 6. Whether the person having legal custody of the
29 child made the child's whereabouts known to the person alleged
30 to have abandoned the child, advised that person of the needs
31 of the child or the needs of the mother of an unborn child

1 with regard to the pregnancy, or informed that person of
2 events such as medical appointments and tests relating to the
3 child or, if unborn, the pregnancy.

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

7 1. The period of time for which the parent is expected
8 to be incarcerated will constitute a substantial portion of
9 the period of time before the child will attain the age of 18
10 years;

11 2. The incarcerated parent has been determined by the
12 court to be a violent career criminal as defined in s.
13 775.084, a habitual violent felony offender as defined in s.
14 775.084, convicted of child abuse as defined in s. 827.03, or
15 a sexual predator as defined in s. 775.21; has been convicted
16 of first degree or second degree murder in violation of s.
17 782.04 or a sexual battery that constitutes a capital, life,
18 or first degree felony violation of s. 794.011; or has been
19 convicted of an offense in another jurisdiction which is
20 substantially similar to one of the offenses listed in this
21 subparagraph. As used in this section, the term

22 "substantially similar offense" means any offense that is
23 substantially similar in elements and penalties to one of
24 those listed in this subparagraph, and that is in violation of
25 a law of any other jurisdiction, whether that of another
26 state, the District of Columbia, the United States or any
27 possession or territory thereof, or any foreign jurisdiction;
28 or

29 3. The court determines by clear and convincing
30 evidence that continuing the parental relationship with the
31 incarcerated parent would be harmful to the child and, for

1 this reason, that termination of the parental rights of the
2 incarcerated parent is in the best interest of the child.

3 (c) The only conduct of a father toward a mother
4 during pregnancy that the court may consider in determining
5 whether the child has been abandoned is conduct that occurred
6 after the father was informed he may be the father of the
7 child or after diligent search and notice as provided in s.
8 63.088 have been made to inform the father that he is, or may
9 be, the father of the child.

10 (5) DISMISSAL OF PETITION WITH PREJUDICE.--If the
11 court does not find by clear and convincing evidence that
12 parental rights of a parent should be terminated pending
13 adoption, the court must dismiss the petition with prejudice
14 and that parent's parental rights that were the subject of
15 such petition remain in full force under the law. The order
16 must include written findings in support of the dismissal,
17 including findings as to the criteria in subsection (4) if
18 rejecting a claim of abandonment. Parental rights may not be
19 terminated based upon a consent that the court finds has been
20 timely withdrawn under s. 63.082 or a consent to adoption or
21 affidavit of nonpaternity that the court finds was obtained by
22 fraud or under duress. The court must enter an order based
23 upon written findings providing for the placement of the
24 minor. The court may order scientific testing to determine the
25 paternity of the minor at any time during which the court has
26 jurisdiction over the minor. Further proceedings, if any,
27 regarding the minor must be brought in a separate custody
28 action under chapter 61, a dependency action under chapter 39,
29 or a paternity action under chapter 742.

30 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
31 ADOPTION.--

1 (a) The judgment terminating parental rights pending
2 adoption must be in writing and contain findings of fact as to
3 the grounds for terminating parental rights pending adoption.

4 (b) Within 24 hours after filing, the court shall mail
5 a copy of the judgment to the department, the petitioner,
6 those persons required to give consent under s. 63.062, and
7 the respondent. The clerk shall execute a certificate of each
8 mailing.

9 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL
10 RIGHTS.--

11 (a) A judgment terminating parental rights pending
12 adoption is voidable and any later judgment of adoption of
13 that minor is voidable if, upon the motion of a parent, the
14 court finds that a person knowingly gave false information
15 that prevented the parent from timely making known his or her
16 desire to assume parental responsibilities toward the minor or
17 meeting the requirements under this chapter to exercise his or
18 her parental rights. A motion under this subsection must be
19 filed with the court originally entering the judgment. The
20 motion must be filed within a reasonable time, but not later
21 than 2 years after the entry of the judgment terminating
22 parental rights.

23 (b) No later than 30 days after the filing of a motion
24 under this subsection, the court must conduct a preliminary
25 hearing to determine what contact, if any, shall be permitted
26 between a parent and the child pending resolution of the
27 motion. Such contact shall be considered only if it is
28 requested by a parent who has appeared at the hearing. If the
29 court orders contact between a parent and child, the order
30 must be issued in writing as expeditiously as possible and
31

1 must state with specificity any provisions regarding contact
2 with persons other than those with whom the child resides.

3 (c) At the preliminary hearing, the court, upon the
4 motion of any party or upon its own motion, may order
5 scientific testing to determine the paternity of the minor if
6 the person seeking to set aside the judgment is alleging to be
7 the child's father and that fact has not previously been
8 determined by legitimacy or scientific testing. The court may
9 order supervised visitation with a person for whom scientific
10 testing for paternity has been ordered. Such visitation shall
11 be conditioned upon the filing of those test results with the
12 court and such results establishing that person's paternity of
13 the minor.

14 (d) No later than 45 days after the preliminary
15 hearing, the court must conduct a final hearing on the motion
16 to set aside the judgment and enter its written order as
17 expeditiously as possible thereafter.

18 (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
19 records pertaining to a petition to terminate parental rights
20 pending adoption are related to the subsequent adoption of the
21 minor and are subject to the provisions of s. 63.162. The
22 confidentiality provisions of this chapter do not apply to the
23 extent information regarding persons or proceedings must be
24 made available as specified under s. 63.088.

25 Section 19. Section 63.092, Florida Statutes, is
26 amended to read:

27 63.092 Report to the court of intended placement by an
28 adoption entity; at-risk placement intermediary; preliminary
29 study.--

30 (1) REPORT TO THE COURT.--The adoption entity
31 ~~intermediary~~ must report any intended placement of a minor for

1 adoption with any person not related within the third degree
2 or a stepparent if the adoption entity intermediary has
3 knowledge of, or participates in, such intended placement. The
4 report must be made to the court before the minor is placed in
5 the home.

6 (2) AT-RISK PLACEMENT.--If the minor is placed in the
7 prospective adoptive home before the parental rights of the
8 minor's parents are terminated under s. 63.089, the placement
9 is an at-risk placement. If the placement is an at-risk
10 placement, the prospective adoptive parents must acknowledge
11 in writing before the minor may be placed in the prospective
12 adoptive home that the placement is at risk and that the minor
13 is subject to removal from the prospective adoptive home by
14 the adoption entity or by court order.

15 (3)(2) PRELIMINARY HOME STUDY.--Before placing the
16 minor in the intended adoptive home, a preliminary home study
17 must be performed by a licensed child-placing agency, a
18 child-caring agency registered under s. 409.176, a licensed
19 professional, or agency described in s. 61.20(2), unless the
20 petitioner is a stepparent, a spouse of the ~~birth~~ parent, or a
21 relative. The preliminary study shall be completed within 30
22 days after the receipt by the court of the adoption entity's
23 ~~intermediary's~~ report, but in no event may the minor child be
24 placed in the prospective adoptive home prior to the
25 completion of the preliminary study unless ordered by the
26 court. If the petitioner is a stepparent, a spouse of the
27 ~~birth~~ parent, or a relative, the preliminary home study may be
28 required by the court for good cause shown. The department is
29 required to perform the preliminary home study only if there
30 is no licensed child-placing agency, child-caring agency
31 registered under s. 409.176, licensed professional, or agency

1 described in s. 61.20(2), in the county where the prospective
2 adoptive parents reside. The preliminary home study must be
3 made to determine the suitability of the intended adoptive
4 parents and may be completed prior to identification of a
5 prospective adoptive minor ~~child~~. A favorable preliminary
6 home study is valid for 1 year after the date of its
7 completion. Upon its completion, a copy of the home study
8 must be provided to the intended adoptive parents who were the
9 subject of the home study. ~~A minor may child must~~ not be
10 placed in an intended adoptive home before a favorable
11 preliminary home study is completed unless the adoptive home
12 is also a licensed foster home under s. 409.175. The
13 preliminary home study must include, at a minimum:
14 (a) An interview with the intended adoptive parents;
15 (b) Records checks of the department's central abuse
16 registry and criminal records correspondence checks pursuant
17 to s. 435.045 through the Department of Law Enforcement on the
18 intended adoptive parents;
19 (c) An assessment of the physical environment of the
20 home;
21 (d) A determination of the financial security of the
22 intended adoptive parents;
23 (e) Documentation of counseling and education of the
24 intended adoptive parents on adoptive parenting;
25 (f) Documentation that information on adoption and the
26 adoption process has been provided to the intended adoptive
27 parents;
28 (g) Documentation that information on support services
29 available in the community has been provided to the intended
30 adoptive parents; and
31

1 (h) A copy of each ~~the~~ signed acknowledgment statement
2 required by s. 63.085~~7~~ and

3 ~~(i) A copy of the written acknowledgment required by~~
4 ~~s. 63.085(1).~~

5
6 If the preliminary home study is favorable, a minor may be
7 placed in the home pending entry of the judgment of adoption.
8 A minor may not be placed in the home if the preliminary home
9 study is unfavorable. If the preliminary home study is
10 unfavorable, the adoption entity intermediary or petitioner
11 may, within 20 days after receipt of a copy of the written
12 recommendation, petition the court to determine the
13 suitability of the intended adoptive home. A determination as
14 to suitability under this subsection does not act as a
15 presumption of suitability at the final hearing. In
16 determining the suitability of the intended adoptive home, the
17 court must consider the totality of the circumstances in the
18 home. No minor may be placed in a home in which there resides
19 any person determined by the court to be a sexual predator as
20 defined in s. 775.21 or to have been convicted of an offense
21 listed in s. 63.089(4)(b)2.

22 Section 20. Section 63.097, Florida Statutes, is
23 amended to read:

24 63.097 Fees.--

25 (1) When the adoption entity is an agency, fees may be
26 assessed if they are approved by the department within the
27 process of licensing the agency and if they are for:

28 (a) Foster care expenses;

29 (b) Preplacement and postplacement social services;

30 and

31 (c) Agency facility and administrative costs.

1 (2) The following fees, costs, and expenses may be
2 assessed by the adoption entity or paid by the adoption entity
3 on behalf of the prospective adoptive parents:

4 (a) Reasonable living expenses of the birth mother
5 which the birth mother is unable to pay due to unemployment,
6 underemployment, or disability due to the pregnancy which is
7 certified by a medical professional who has examined the birth
8 mother, or any other disability defined in s. 110.215.

9 Reasonable living expenses are rent, utilities, basic
10 telephone service, food, necessary clothing, transportation,
11 and expenses found by the court to be necessary for the health
12 of the unborn child.

13 (b) Reasonable and necessary medical expenses.

14 (c) Expenses necessary to comply with the requirements
15 of this chapter, including, but not limited to, service of
16 process under s. 63.088, a diligent search under s. 63.088, a
17 preliminary home study under s. 63.092, and a final home
18 investigation under s. 63.125.

19 (d) Court filing expenses, court costs, and other
20 litigation expenses.

21 (e) Costs associated with advertising under s.
22 63.212(1)(g).

23 (f) The following professional fees:

24 1. A reasonable hourly fee necessary to provide legal
25 representation to the adoptive parents or adoption entity in a
26 proceeding filed under this chapter.

27 2. A reasonable hourly fee for contact with the parent
28 related to the adoption. In determining a reasonable hourly
29 fee under this subparagraph, the court must consider if the
30 tasks done were clerical or of such a nature that the matter
31 could have been handled by support staff at a lesser rate than

1 the rate for legal representation charged under subparagraph
2 1. Such tasks specifically do not include obtaining a parent's
3 signature on any document; such tasks include, but need not be
4 limited to, transportation, transmitting funds, arranging
5 appointments, and securing accommodations.

6 3. A reasonable hourly fee for counseling services
7 provided to a parent or a prospective adoptive parent by a
8 psychologist licensed under chapter 490 or a clinical social
9 worker, marriage and family therapist, or mental health
10 counselor licensed under chapter 491, or a counselor who is
11 employed by an adoption entity accredited by the Council on
12 Accreditation of Services for Children and Families to provide
13 pregnancy counseling and supportive services.

14 (3) Prior approval of the court is not required until
15 the cumulative total of amounts permitted under subsection (2)
16 exceeds:

17 (a) \$2,500 in legal or other fees;
18 (b) \$500 in court costs;
19 (c) \$3,000 in expenses; or
20 (d) \$1,500 cumulative expenses that are related to the
21 minor, the pregnancy, a parent, or adoption proceeding, which
22 expenses are incurred prior to the date the prospective
23 adoptive parent retains the adoption entity.

24 (4) Any fees, costs, or expenses not included in
25 subsection (2) or prohibited under subsection (5) require
26 court approval prior to payment and must be based on a finding
27 of extraordinary circumstances.

28 (5) The following fees, costs, and expenses are
29 prohibited:

30 (a) Any fee or expense that constitutes payment for
31 locating a minor for adoption.

1 (b) Any lump-sum payment to the entity which is
2 nonrefundable directly to the payor or which is not itemized
3 on the affidavit filed under s. 63.132.

4 (c) Any fee on the affidavit which does not specify
5 the service that was provided and for which the fee is being
6 charged, such as a fee for facilitation, acquisition, or other
7 similar service, or which does not identify the date the
8 service was provided, the time required to provide the
9 service, the person or entity providing the service, and the
10 hourly fee charged.

11 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~
12 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~
13 ~~\$2,500, paid to an intermediary other than actual, documented~~
14 ~~medical costs, court costs, and hospital costs must be~~
15 ~~approved by the court prior to assessment of the fee by the~~
16 ~~intermediary and upon a showing of justification for the~~
17 ~~larger fee.~~

18 ~~(6)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--Unless~~
19 otherwise indicated in this section, when an adoption entity
20 intermediary uses the services of a licensed child-placing
21 agency, a professional, any other person or agency pursuant to
22 s. 63.092, or, if necessary, the department, the person
23 seeking to adopt the child must pay the licensed child-placing
24 agency, professional, other person or agency, or the
25 department an amount equal to the cost of all services
26 performed, including, but not limited to, the cost of
27 conducting the preliminary home study, counseling, and the
28 final home investigation. The court, upon a finding that the
29 person seeking to adopt the child is financially unable to pay
30 that amount, may order that such person pay a lesser amount.

31

1 Section 21. Section 63.102, Florida Statutes, is
2 amended to read:

3 63.102 Filing of petition for adoption or declaratory
4 statement; venue; proceeding for approval of fees and costs.--

5 (1) A petition for adoption may not be filed until 30
6 days after the date of the entry of the judgment terminating
7 parental rights pending adoption under this chapter, unless
8 the adoptee is an adult or the minor has been the subject of a
9 judgment terminating parental rights under chapter 39. After a
10 judgment terminating parental rights has been entered, a
11 proceeding for adoption may ~~shall~~ be commenced by filing a
12 petition entitled, "In the Matter of the Adoption of" in
13 the circuit court. The person to be adopted shall be
14 designated in the caption in the name by which he or she is to
15 be known if the petition is granted. ~~if the child is placed~~
16 ~~for adoption by an agency, Any name by which the minor child~~
17 was previously known may ~~shall~~ not be disclosed in the
18 petition, the notice of hearing, or the judgment of adoption.

19 (2) A petition for adoption or for a declaratory
20 statement as to the adoption contract shall be filed in the
21 county where the petition for termination of parental rights
22 was granted, unless the court, in accordance with s. 47.122,
23 changes the venue to the county where the petitioner or
24 petitioners or the minor child resides or where the adoption
25 entity with agency in which the minor child has been placed is
26 located. The circuit court in this state must retain
27 jurisdiction over the matter until a final judgment is entered
28 on the adoption. The Uniform Child Custody Jurisdiction Act
29 does not apply until a final judgment is entered on the
30 adoption.

31

1 (3) Except for adoptions involving placement of a
2 minor child with a relative within the third degree of
3 consanguinity, a petition for adoption in an adoption handled
4 by an adoption entity intermediary shall be filed within 60 ~~30~~
5 working days after entry of the judgment terminating parental
6 rights ~~placement of a child with a parent seeking to adopt the~~
7 ~~child~~. If no petition is filed within 60 ~~30~~ days, any
8 interested party, including the state, may file an action
9 challenging the prospective adoptive parent's physical custody
10 of the minor child.

11 (4) If the filing of the petition for adoption or for
12 a declaratory statement as to the adoption contract in the
13 county where the petitioner or minor child resides would tend
14 to endanger the privacy of the petitioner or minor child, the
15 petition for adoption may be filed in a different county,
16 provided the substantive rights of any person will not thereby
17 be affected.

18 (5) A proceeding for prior approval of fees and costs
19 may be commenced any time after an agreement is reached
20 between the birth mother and the adoptive parents by filing a
21 petition for declaratory statement on the agreement entitled
22 "In the Matter of the Proposed Adoption of a Minor Child" in
23 the circuit court.

24 (a) The petition must be filed jointly by the adoption
25 entity and each person who enters into the agreement.

26 (b) A contract for the payment of fees, costs, and
27 expenses permitted under this chapter must be in writing, and
28 any person who enters into the contract has 3 business days in
29 which to cancel the contract. To cancel the contract, the
30 person must notify the adoption entity in writing by certified
31 United States mail, return receipt requested, no later than 3

1 business days after signing the contract. For the purposes of
2 this subsection, the term "business day" means a day on which
3 the United States Postal Service accepts certified mail for
4 delivery. If the contract is canceled within the first 3
5 business days, the person who cancels the contract does not
6 owe any legal, intermediary, or other fees, but may be
7 responsible for the adoption entity's actual costs during that
8 time.

9 (c) The court may grant prior approval only of fees
10 and expenses permitted under s. 63.097. A prior approval of
11 prospective fees and costs does not create a presumption that
12 these items will subsequently be approved by the court under
13 s. 63.132. The court, under s. 63.132, may order an adoption
14 entity to refund any amount paid under this subsection that is
15 subsequently found by the court to be greater than fees,
16 costs, and expenses actually incurred.

17 (d) The contract may not require, and the court may
18 not approve, any lump-sum payment to the entity which is
19 nonrefundable to the payor or any amount that constitutes
20 payment for locating a minor for adoption.

21 (e) When a petition for a declaratory statement as to
22 the adoption contract is filed prior to the commencement of
23 proceedings to terminate parental rights, it must be filed in
24 accordance with the venue requirements for the filing of the
25 petition terminating parental rights under s. 63.087. Pursuant
26 to s. 63.087, a previously filed petition for a declaratory
27 statement filed under this section must be consolidated with a
28 related subsequently filed petition for termination of
29 parental rights. If the petition for declaratory statement is
30 filed after the judgment terminating parental rights has been
31 entered, the action for declaratory statement must be

1 consolidated with any related petition for adoption. Only one
2 filing fee may be assessed for both the adoption and
3 declaratory statement petitions.

4 (f) Prior approval of fees and costs by the court does
5 not obligate the parent to ultimately relinquish the minor for
6 adoption.~~If a petition for adoption is subsequently filed,~~
7 ~~the petition for declaratory statement and the petition for~~
8 ~~adoption must be consolidated into one case.~~

9 Section 22. Section 63.112, Florida Statutes, is
10 amended to read:

11 63.112 Petition for adoption; description; report or
12 recommendation, exceptions; mailing.--

13 (1) A sufficient number of copies of the petition for
14 adoption shall be signed and verified by the petitioner and
15 filed with the clerk of the court so that service may be made
16 under subsection (4) and shall state:

17 (a) The date and place of birth of the person to be
18 adopted, if known;

19 (b) The name to be given to the person to be adopted;

20 (c) The date petitioner acquired custody of the minor
21 and the name of the person placing the minor;

22 (d) The full name, age, and place and duration of
23 residence of the petitioner;

24 (e) The marital status of the petitioner, including
25 the date and place of marriage, if married, and divorces, if
26 any;

27 (f) The facilities and resources of the petitioner,
28 including those under a subsidy agreement, available to
29 provide for the care of the minor to be adopted;

30 (g) A description and estimate of the value of any
31 property of the person to be adopted;

1 (h) The case style and date of entry of the judgment
2 terminating parental rights name and address, if known, of any
3 person whose consent to the adoption is required, but who has
4 not consented, and facts or circumstances that excuse the lack
5 of consent; and

6 (i) The reasons why the petitioner desires to adopt
7 the person.

8 (2) The following documents are required to be filed
9 with the clerk of the court at the time the petition is filed:

10 (a) A certified copy of the court judgment terminating
11 parental rights under chapter 39 or under this chapter.~~The~~
12 ~~required consents, unless consent is excused by the court.~~

13 (b) The favorable preliminary home study of the
14 department, licensed child-placing agency, or professional
15 pursuant to s. 63.092, as to the suitability of the home in
16 which the minor has been placed.

17 (c) A copy of any declaratory statement previously
18 entered by the court pursuant to s. 63.102.

19 ~~(d)~~(c) The surrender document must include
20 documentation that an interview was ~~interviews were held with:~~

21 1. ~~The birth mother, if parental rights have not been~~
22 ~~terminated;~~

23 2. ~~The birth father, if his consent to the adoption is~~
24 ~~required and parental rights have not been terminated; and~~

25 3. ~~the minor child, if older than 12 years of age,~~
26 unless the court, in the best interest of the minor child,
27 dispenses with the minor's ~~child's~~ consent under s.

28 63.062(1)(g)~~63.062(1)(c).~~

29
30
31

1 ~~The court may waive the requirement for an interview with the~~
2 ~~birth mother or birth father in the investigation for good~~
3 ~~cause shown.~~

4 (3) Unless ordered by the court, no report or
5 recommendation is required when the placement is a stepparent
6 adoption or when the minor ~~child~~ is related to one of the
7 adoptive parents within the third degree.

8 (4) The clerk of the court shall mail a copy of the
9 petition within 24 hours after filing, and execute a
10 certificate of mailing, to the adoption entity ~~department~~ and
11 ~~the agency~~ placing the minor, if any.

12 Section 23. Section 63.122, Florida Statutes, is
13 amended to read:

14 63.122 Notice of hearing on petition.--

15 (1) After the petition to adopt a minor is filed, the
16 court must establish a time and place for hearing the
17 petition. The hearing may ~~must~~ not be held sooner than 30 days
18 after the date the judgment terminating parental rights was
19 entered or sooner than 90 days after the date the minor was
20 placed ~~the placing of the minor~~ in the physical custody of the
21 petitioner. The minor must remain under the supervision of
22 the adoption entity ~~department, an intermediary, or a licensed~~
23 ~~child-placing agency~~ until the adoption becomes final. When
24 the petitioner is a spouse of the birth parent, the hearing
25 may be held immediately after the filing of the petition.

26 (2) Notice of hearing must be given as prescribed by
27 the rules of civil procedure, and service of process must be
28 made as specified by law for civil actions.

29 (3) Upon a showing by the petitioner that the privacy
30 of the petitioner or minor ~~child~~ may be endangered, the court
31 may order the names of the petitioner or minor ~~child~~, or both,

1 to be deleted from the notice of hearing and from the copy of
2 the petition attached thereto, provided the substantive rights
3 of any person will not thereby be affected.

4 (4) Notice of the hearing must be given by the
5 petitioner to the adoption entity that places the minor.+

6 ~~(a) The department or any licensed child-placing
7 agency placing the minor.~~

8 ~~(b) The intermediary.~~

9 ~~(c) Any person whose consent to the adoption is
10 required by this act who has not consented, unless such
11 person's consent is excused by the court.~~

12 ~~(d) Any person who is seeking to withdraw consent.~~

13 (5) After filing the petition to adopt an adult, a
14 notice of the time and place of the hearing must be given to
15 any person whose consent to the adoption is required but who
16 has not consented. The court may order an appropriate
17 investigation to assist in determining whether the adoption is
18 in the best interest of the persons involved.

19 Section 24. Section 63.125, Florida Statutes, is
20 amended to read:

21 63.125 Final home investigation.--

22 (1) The final home investigation must be conducted
23 before the adoption becomes final. The investigation may be
24 conducted by a licensed child-placing agency or a professional
25 in the same manner as provided in s. 63.092 to ascertain
26 whether the adoptive home is a suitable home for the minor and
27 whether the proposed adoption is in the best interest of the
28 minor. Unless directed by the court, an investigation and
29 recommendation are not required if the petitioner is a
30 stepparent or if the minor ~~child~~ is related to one of the
31 adoptive parents within the third degree of consanguinity.

1 The department is required to perform the home investigation
2 only if there is no licensed child-placing agency or
3 professional pursuant to s. 63.092 in the county in which the
4 prospective adoptive parent resides.

5 (2) The department, the licensed child-placing agency,
6 or the professional that performs the investigation must file
7 a written report of the investigation with the court and the
8 petitioner within 90 days after the date the petition is
9 filed.

10 (3) The report of the investigation must contain an
11 evaluation of the placement with a recommendation on the
12 granting of the petition for adoption and any other
13 information the court requires regarding the petitioner or the
14 minor.

15 (4) The department, the licensed child-placing agency,
16 or the professional making the required investigation may
17 request other state agencies or child-placing agencies within
18 or outside this state to make investigations of designated
19 parts of the inquiry and to make a written report to the
20 department, the professional, or other person or agency.

21 (5) The final home investigation must include:

22 (a) The information from the preliminary home study.

23 (b) After the minor ~~child~~ is placed in the intended
24 adoptive home, two scheduled visits with the minor ~~child~~ and
25 the minor's ~~child's~~ adoptive parent or parents, one of which
26 visits must be in the home, to determine the suitability of
27 the placement.

28 (c) The family social and medical history as provided
29 in s. 63.082.

30 (d) Any other information relevant to the suitability
31 of the intended adoptive home.

1 (e) Any other relevant information, as provided in
2 rules that the department may adopt.

3 Section 25. Section 63.132, Florida Statutes, is
4 amended to read:

5 63.132 Affidavit ~~Report~~ of expenses ~~expenditures~~ and
6 receipts.--

7 (1) At least 10 days before the hearing on the
8 petition for adoption, the prospective adoptive parent
9 ~~petitioner~~ and any adoption entity intermediary must file two
10 copies of an affidavit under this section.

11 (a) The affidavit must be signed by the adoption
12 entity and the prospective adoptive parents. A copy of the
13 affidavit must be provided to the adoptive parents at the time
14 the affidavit is executed.

15 (b) The affidavit must itemize ~~containing a full~~
16 ~~accounting of~~ all disbursements and receipts of anything of
17 value, including professional and legal fees, made or agreed
18 to be made by or on behalf of the prospective adoptive parent
19 ~~petitioner~~ and any adoption entity intermediary in connection
20 with the adoption or in connection with any prior proceeding
21 to terminate parental rights which involved the minor who is
22 the subject of the petition for adoption. The affidavit must
23 also include, for each fee itemized, the service provided for
24 which the fee is being charged, the date the service was
25 provided, the time required to provide the service, the person
26 or entity that provided the service, and the hourly fee
27 charged.

28 (c) The clerk of the court shall forward a copy of the
29 affidavit to the department.

30 (d) The affidavit ~~report~~ must show any expenses or
31 receipts incurred in connection with:

- 1 ~~1.(a)~~ The birth of the minor.
- 2 ~~2.(b)~~ The placement of the minor with the petitioner.
- 3 ~~3.(c)~~ The medical or hospital care received by the
4 mother or by the minor during the mother's prenatal care and
5 confinement.
- 6 ~~4.(d)~~ The living expenses of the birth mother. The
7 living expenses must be documented in detail to apprise the
8 court of the exact expenses incurred.
- 9 ~~5.(e)~~ The services relating to the adoption or to the
10 placement of the minor for adoption that were received by or
11 on behalf of the petitioner, the adoption entity intermediary,
12 either ~~natural~~ parent, the minor, or any other person.
- 13
- 14 The affidavit must state whether any of these expenses were
15 paid for by collateral sources, including, but not limited to,
16 health insurance, Medicaid, Medicare, or public assistance.
- 17 (2) The court may require such additional information
18 as is deemed necessary.
- 19 (3) The court must issue a separate order approving or
20 disapproving the fees, costs, and expenses itemized in the
21 affidavit. The court may approve only fees, costs, and
22 expenditures allowed under s. 63.097. The court may reject in
23 whole or in part any fee, cost, or expenditure listed if the
24 court finds that the expense is:
- 25 (a) Contrary to this chapter;
- 26 (b) Not supported by a receipt in the record, if the
27 expense is not a fee of the adoption entity; or
- 28 (c) Not a reasonable fee or expense, considering the
29 requirements of this chapter and the totality of the
30 circumstances.
- 31

1 (4)(3) This section does not apply to an adoption by a
2 stepparent whose spouse is a ~~natural or adoptive~~ parent of the
3 child.

4 Section 26. Section 63.142, Florida Statutes, is
5 amended to read:

6 63.142 Hearing; judgment of adoption.--

7 (1) APPEARANCE.--The petitioner and the person to be
8 adopted shall appear at the hearing on the petition for
9 adoption, unless:

10 (a) The person is a minor under 12 years of age; or

11 (b) The presence of either is excused by the court for
12 good cause.

13 (2) CONTINUANCE.--The court may continue the hearing
14 from time to time to permit further observation,
15 investigation, or consideration of any facts or circumstances
16 affecting the granting of the petition.

17 (3) DISMISSAL.--

18 (a) If the petition is dismissed, the court shall
19 determine the person that is to have custody of the minor.

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

22 (4) JUDGMENT.--At the conclusion of the hearing, after
23 when the court determines that the date for a parent to file
24 an appeal of a valid judgment terminating that parent's
25 parental rights has passed and no appeal, pursuant to the
26 Florida Rules of Appellate Procedure, is pending all necessary
27 consents have been obtained and that the adoption is in the
28 best interest of the person to be adopted, a judgment of
29 adoption shall be entered.

30 (a) A judgment terminating parental rights pending
31 adoption is voidable and any later judgment of adoption of

1 that minor is voidable if, upon a motion to set aside of a
2 parent, the court finds that any person knowingly gave false
3 information that prevented the parent from timely making known
4 his or her desire to assume parental responsibilities toward
5 the minor or meeting the requirements under this chapter to
6 exercise his or her parental rights. A motion under this
7 paragraph must be filed with the court that entered the
8 original judgment. The motion must be filed within a
9 reasonable time, but not later than 2 years after the date the
10 judgment terminating parental rights was entered.

11 (b) Except upon good cause shown, no later than 30
12 days after the filing of a motion under this subsection, the
13 court must conduct a preliminary hearing to determine what
14 contact, if any, shall be permitted between a parent and the
15 child pending resolution of the motion. Such contact shall be
16 considered only if it is requested by a parent who has
17 appeared at the hearing. If the court orders contact between a
18 parent and child, the order must be issued in writing as
19 expeditiously as possible and must state with specificity any
20 provisions regarding contact with persons other than those
21 with whom the child resides.

22 (c) At the preliminary hearing, the court, upon the
23 motion of any party or its own motion, may order scientific
24 testing to determine the paternity of the minor if the person
25 seeking to set aside the judgment is alleging to be the
26 child's father and that fact has not previously been
27 determined by legitimacy or scientific testing. The court may
28 order supervised visitation with a person for whom scientific
29 testing for paternity has been ordered. Such visitation shall
30 be conditioned upon the filing of those test results with the

31

1 court and such results establishing that person's paternity of
2 the minor.

3 (d) Except upon good cause shown, no later than 45
4 days after the preliminary hearing, the court must conduct a
5 final hearing on the motion to set aside the judgment and
6 issue its written order as expeditiously as possible
7 thereafter.

8 Section 27. Subsection (2) of section 63.162, Florida
9 Statutes, is amended to read:

10 63.162 Hearings and records in adoption proceedings;
11 confidential nature.--

12 (2) All papers and records pertaining to the adoption,
13 including the original birth certificate, whether part of the
14 permanent record of the court or a file in the office of an
15 adoption entity department, ~~in a licensed child-placing~~
16 ~~agency, or in the office of an intermediary~~ are confidential
17 and subject to inspection only upon order of the court;
18 however, the petitioner in any proceeding for adoption under
19 this chapter may, at the option of the petitioner, make public
20 the reasons for a denial of the petition for adoption. The
21 order must specify which portion of the records are subject to
22 inspection, and it may exclude the name and identifying
23 information concerning the ~~birth~~ parent or adoptee. Papers and
24 records of the department, a court, or any other governmental
25 agency, which papers and records relate to adoptions, are
26 exempt from s. 119.07(1). In the case of a nonagency
27 adoption, the department must be given notice of hearing and
28 be permitted to present to the court a report on the
29 advisability of disclosing or not disclosing information
30 pertaining to the adoption. In the case of an agency
31 adoption, the licensed child-placing agency must be given

1 notice of hearing and be permitted to present to the court a
2 report on the advisability of disclosing or not disclosing
3 information pertaining to the adoption. This subsection does
4 not prohibit the department from inspecting and copying any
5 official record pertaining to the adoption that is maintained
6 by the department and does not prohibit an agency from
7 inspecting and copying any official record pertaining to the
8 adoption that is maintained by that agency.

9 Section 28. Section 63.165, Florida Statutes, is
10 amended to read:

11 63.165 State registry of adoption information; duty to
12 inform and explain.--Notwithstanding any other law to the
13 contrary, the department shall maintain a registry with the
14 last known names and addresses of an adoptee and his or her
15 ~~natural~~ parents whose consent was required under s. 63.062,
16 and adoptive parents and any other identifying information
17 that which the adoptee, ~~natural~~ parents whose consent was
18 required under s. 63.062, or adoptive parents desire to
19 include in the registry. The department shall maintain the
20 registry records for the time required by rules adopted by the
21 department in accordance with this chapter or for 99 years,
22 whichever period is greater.The registry shall be open with
23 respect to all adoptions in the state, regardless of when they
24 took place. The registry shall be available for those persons
25 choosing to enter information therein, but no one shall be
26 required to do so.

27 (1) Anyone seeking to enter, change, or use
28 information in the registry, or any agent of such person,
29 shall present verification of his or her identity and, if
30 applicable, his or her authority. A person who enters
31 information in the registry shall be required to indicate

1 clearly the persons to whom he or she is consenting to release
2 this information, which persons shall be limited to the
3 adoptee and the birth ~~natural~~ mother, ~~natural~~ father whose
4 consent was required under s. 63.062, adoptive mother,
5 adoptive father, birth ~~natural~~ siblings, and maternal and
6 paternal birth ~~natural~~ grandparents of the adoptee. Except as
7 provided in this section, information in the registry is
8 confidential and exempt from ~~the provisions of~~ s. 119.07(1).
9 Consent to the release of this information may be made in the
10 case of a minor adoptee by his or her adoptive parents or by
11 the court after a showing of good cause. At any time, any
12 person may withdraw, limit, or otherwise restrict consent to
13 release information by notifying the department in writing.

14 (2) The department may charge a reasonable fee to any
15 person seeking to enter, change, or use information in the
16 registry. The department shall deposit such fees in a trust
17 fund to be used by the department only for the efficient
18 administration of this section. The department and agencies
19 shall make counseling available for a fee to all persons
20 seeking to use the registry, and the department shall inform
21 all affected persons of the availability of such counseling.

22 (3) The adoption entity ~~department, intermediary, or~~
23 ~~licensed child-placing agency~~ must inform the birth parents
24 before parental rights are terminated, and the adoptive
25 parents before placement, in writing, of the existence and
26 purpose of the registry established under this section, but
27 failure to do so does not affect the validity of any
28 proceeding under this chapter.

29 Section 29. Subsection (2) of section 63.202, Florida
30 Statutes, is amended to read:

31 63.202 Authority to license; adoption of rules.--

1 (2) No agency shall place a minor for adoption unless
2 such agency is licensed by the department, except a
3 child-caring agency registered under s. 409.176.

4 Section 30. Section 63.207, Florida Statutes, is
5 amended to read:

6 63.207 Out-of-state placement.--

7 (1) Unless the parent placing a minor for adoption
8 files an affidavit that the parent chooses to place the minor
9 outside the state, giving the reason for that placement, or
10 the minor ~~child~~ is to be placed with a relative within the
11 third degree or with a stepparent, or the minor is a special
12 needs child, as defined in s. 409.166, or for other good cause
13 shown, an adoption entity may not ~~no person except an~~
14 intermediary, an agency, or the department shall:

15 (a) Take or send a minor ~~child~~ out of the state for
16 the purpose of placement for adoption; or

17 (b) Place or attempt to place a minor ~~child~~ for the
18 purpose of adoption with a family who primarily lives and
19 works outside Florida in another state. ~~An intermediary may~~
20 ~~place or attempt to place a child for adoption in another~~
21 ~~state only if the child is a special needs child as that term~~
22 ~~is defined in s. 409.166. If an adoption entity intermediary~~
23 ~~is acting under this subsection, the adoption entity must~~
24 ~~intermediary shall~~ file a petition for declaratory statement
25 pursuant to s. 63.102 for prior approval of fees and costs.
26 The court shall review the costs pursuant to s. 63.097. The
27 petition for declaratory statement must be converted to a
28 petition for an adoption upon placement of the minor ~~child~~ in
29 the home. The circuit court in this state must retain
30 jurisdiction over the matter until the adoption becomes final.
31 The prospective adoptive parents must come to this state to

1 have the adoption finalized. Violation of the order subjects
2 the adoption entity intermediary to contempt of court and to
3 the penalties provided in s. 63.212.

4 (2) An adoption entity intermediary may not counsel a
5 birth mother to leave the state for the purpose of giving
6 birth to a child outside the state in order to secure a fee in
7 excess of that permitted under s. 63.097 when it is the
8 intention that the child is to be placed for adoption outside
9 the state.

10 (3) When applicable, the Interstate Compact on the
11 Placement of Children authorized in s. 409.401 shall be used
12 in placing children outside the state for adoption.

13 Section 31. Section 63.212, Florida Statutes, is
14 amended to read:

15 63.212 Prohibited acts; penalties for violation;
16 preplanned adoption agreement.--

17 (1) It is unlawful for any person:

18 (a) ~~Except the department, an intermediary, or an~~
19 ~~agency,~~ To place or attempt to place a minor child for
20 adoption with a person who primarily lives and works outside
21 this state unless the minor child is placed with a relative
22 within the third degree or with a stepparent. ~~An intermediary~~
23 ~~may place or attempt to place a special needs child for~~
24 ~~adoption with a person who primarily lives and works outside~~
25 ~~this state only if the intermediary has a declaratory~~
26 ~~statement from the court establishing the fees to be paid.~~
27 This requirement does not apply if the minor child is placed
28 by an adoption entity in accordance with s. 63.207 ~~with a~~
29 ~~relative within the third degree or with a stepparent.~~

30 (b) ~~Except the department, an intermediary, or an~~
31 ~~agency, to place or attempt to place a child for adoption with~~

1 ~~a family whose primary residence and place of employment is in~~
2 ~~another state unless the child is placed with a relative~~
3 ~~within the third degree or with a stepparent. An intermediary~~
4 ~~may place or attempt to place a special needs child for~~
5 ~~adoption with a family whose primary residence and place of~~
6 ~~employment is in another state only if the intermediary has a~~
7 ~~declaratory statement from the court establishing the fees to~~
8 ~~be paid. This requirement does not apply if the child is~~
9 ~~placed with a relative within the third degree or with a~~
10 ~~stepparent.~~

11 ~~(b)(c) Except an adoption entity the Department of~~
12 ~~Children and Family Services, an agency, or an intermediary,~~
13 ~~to place or attempt to place within the state a minor child~~
14 ~~for adoption unless the minor child is placed with a relative~~
15 ~~within the third degree or with a stepparent. This~~
16 ~~prohibition, however, does not apply to a person who is~~
17 ~~placing or attempting to place a minor child for the purpose~~
18 ~~of adoption with the adoption entity ~~Department of Children~~~~
19 ~~and Family Services or an agency or through an intermediary.~~

20 ~~(c)(d) To sell or surrender, or to arrange for the~~
21 ~~sale or surrender of, a minor child to another person for~~
22 ~~money or anything of value or to receive such minor child for~~
23 ~~such payment or thing of value. If a minor child is being~~
24 ~~adopted by a relative within the third degree or by a~~
25 ~~stepparent, or is being adopted through an adoption entity,~~
26 ~~this paragraph does not prohibit ~~the Department of Children~~~~
27 ~~and Family Services, an agency, or an intermediary, nothing~~
28 ~~herein shall be construed as prohibiting the person who is~~
29 ~~contemplating adopting the child from paying, under ss. 63.097~~
30 ~~and 63.132, the actual prenatal care and living expenses of~~
31 ~~the mother of the child to be adopted, or ~~nor~~ from paying,~~

1 under ss. 63.097 and 63.132, the actual living and medical
2 expenses of such mother for a reasonable time, not to exceed 6
3 weeks, if medical needs require such support, after the birth
4 of the minor child.

5 ~~(d)(e)~~ Having the rights and duties of a parent with
6 respect to the care and custody of a minor to assign or
7 transfer such parental rights for the purpose of, incidental
8 to, or otherwise connected with, selling or offering to sell
9 such rights and duties.

10 ~~(e)(f)~~ To assist in the commission of any act
11 prohibited in paragraphs (a)-(d)~~paragraph (a), paragraph (b),~~
12 ~~paragraph (c), paragraph (d), or paragraph (e).~~

13 ~~(f)(g)~~ Except an adoption entity ~~the Department of~~
14 ~~Children and Family Services or an agency~~, to charge or accept
15 any fee or compensation of any nature from anyone for making a
16 referral in connection with an adoption.

17 ~~(g)(h)~~ Except an adoption entity ~~the Department of~~
18 ~~Children and Family Services, an agency, or an intermediary~~,
19 to advertise or offer to the public, in any way, by any medium
20 whatever that a minor child is available for adoption or that
21 a minor child is sought for adoption; and, further, it is
22 unlawful for any person to publish or broadcast any such
23 advertisement without including a Florida license number of
24 the agency ~~or, attorney, or physician~~ placing the
25 advertisement.

26 ~~(h)(i)~~ To contract for the purchase, sale, or transfer
27 of custody or parental rights in connection with any child, ~~or~~
28 in connection with any fetus yet unborn, or in connection with
29 any fetus identified in any way but not yet conceived, in
30 return for any valuable consideration. Any such contract is
31 void and unenforceable as against the public policy of this

1 state. However, fees, costs, and other incidental payments
2 made in accordance with statutory provisions for adoption,
3 foster care, and child welfare are permitted, and a person may
4 agree to pay expenses in connection with a preplanned adoption
5 agreement as specified below, but the payment of such expenses
6 may not be conditioned upon the transfer of parental rights.
7 Each petition for adoption which is filed in connection with a
8 preplanned adoption agreement must clearly identify the
9 adoption as a preplanned adoption arrangement and must include
10 a copy of the preplanned adoption agreement for review by the
11 court.

12 1. Individuals may enter into a preplanned adoption
13 arrangement as specified herein, but such arrangement shall
14 not in any way:

15 a. Effect final transfer of custody of a child or
16 final adoption of a child, without review and approval of the
17 department and the court, and without compliance with other
18 applicable provisions of law.

19 b. Constitute consent of a mother to place her child
20 for adoption until 7 days following birth, and unless the
21 court making the custody determination or approving the
22 adoption determines that the mother was aware of her right to
23 rescind within the 7-day period following birth but chose not
24 to rescind such consent.

25 2. A preplanned adoption arrangement shall be based
26 upon a preplanned adoption agreement that must ~~which shall~~
27 include, but need not be limited to, the following terms:

28 a. That the volunteer mother agrees to become pregnant
29 by the fertility technique specified in the agreement, to bear
30 the child, and to terminate any parental rights and
31 responsibilities to the child she might have through a written

1 consent executed at the same time as the preplanned adoption
2 agreement, subject to a right of rescission by the volunteer
3 mother any time within 7 days after the birth of the child.

4 b. That the volunteer mother agrees to submit to
5 reasonable medical evaluation and treatment and to adhere to
6 reasonable medical instructions about her prenatal health.

7 c. That the volunteer mother acknowledges that she is
8 aware that she will assume parental rights and
9 responsibilities for the child born to her as otherwise
10 provided by law for a mother, if the intended father and
11 intended mother terminate the agreement before final transfer
12 of custody is completed, or if a court determines that a
13 parent clearly specified by the preplanned adoption agreement
14 to be the biological parent is not the biological parent, or
15 if the preplanned adoption is not approved by the court
16 pursuant to the Florida Adoption Act.

17 d. That an intended father who is also the biological
18 father acknowledges that he is aware that he will assume
19 parental rights and responsibilities for the child as
20 otherwise provided by law for a father, if the agreement is
21 terminated for any reason by any party before final transfer
22 of custody is completed or if the planned adoption is not
23 approved by the court pursuant to the Florida Adoption Act.

24 e. That the intended father and intended mother
25 acknowledge that they may not receive custody or the parental
26 rights under the agreement if the volunteer mother terminates
27 the agreement or if the volunteer mother rescinds her consent
28 to place her child for adoption within 7 days after birth.

29 f. That the intended father and intended mother may
30 agree to pay all reasonable legal, medical, psychological, or
31 psychiatric expenses of the volunteer mother related to the

1 preplanned adoption arrangement, and may agree to pay the
2 reasonable living expenses of the volunteer mother. No other
3 compensation, whether in cash or in kind, shall be made
4 pursuant to a preplanned adoption arrangement.

5 g. That the intended father and intended mother agree
6 to accept custody of and to assert full parental rights and
7 responsibilities for the child immediately upon the child's
8 birth, regardless of any impairment to the child.

9 h. That the intended father and intended mother shall
10 have the right to specify the blood and tissue typing tests to
11 be performed if the agreement specifies that at least one of
12 them is intended to be the biological parent of the child.

13 i. That the agreement may be terminated at any time by
14 any of the parties.

15 3. A preplanned adoption agreement shall not contain
16 any provision:

17 a. To reduce any amount paid to the volunteer mother
18 if the child is stillborn or is born alive but impaired, or to
19 provide for the payment of a supplement or bonus for any
20 reason.

21 b. Requiring the termination of the volunteer mother's
22 pregnancy.

23 4. An attorney who represents an intended father and
24 intended mother or any other attorney with whom that attorney
25 is associated shall not represent simultaneously a female who
26 is or proposes to be a volunteer mother in any matter relating
27 to a preplanned adoption agreement or preplanned adoption
28 arrangement.

29 5. Payment to agents, finders, and intermediaries,
30 including attorneys and physicians, as a finder's fee for
31 finding volunteer mothers or matching a volunteer mother and

1 intended father and intended mother is prohibited. Doctors,
2 psychologists, attorneys, and other professionals may receive
3 reasonable compensation for their professional services, such
4 as providing medical services and procedures, legal advice in
5 structuring and negotiating a preplanned adoption agreement,
6 or counseling.

7 6. As used in this paragraph, the term:

8 a. "Blood and tissue typing tests" include, but are
9 not limited to, tests of red cell antigens, red cell
10 isoenzymes, human leukocyte antigens, and serum proteins.

11 b. "Child" means the child or children conceived by
12 means of an insemination that is part of a preplanned adoption
13 arrangement.

14 c. "Fertility technique" means artificial
15 embryonation, artificial insemination, whether in vivo or in
16 vitro, egg donation, or embryo adoption.

17 d. "Intended father" means a male who, as evidenced by
18 a preplanned adoption agreement, intends to have the parental
19 rights and responsibilities for a child conceived through a
20 fertility technique, regardless of whether the child is
21 biologically related to the male.

22 e. "Intended mother" means a female who, as evidenced
23 by a preplanned adoption agreement, intends to have the
24 parental rights and responsibilities for a child conceived
25 through a fertility technique, regardless of whether the child
26 is biologically related to the female.

27 f. "Parties" means the intended father and intended
28 mother, the volunteer mother and her husband, if she has a
29 husband, who are all parties to the preplanned adoption
30 agreement.

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1 g. "Preplanned adoption agreement" means a written
2 agreement among the parties that specifies the intent of the
3 parties as to their rights and responsibilities in the
4 preplanned adoption arrangement, consistent with the
5 provisions of this act.

6 h. "Preplanned adoption arrangement" means the
7 arrangement through which the parties enter into an agreement
8 for the volunteer mother to bear the child, for payment by the
9 intended father and intended mother of the expenses allowed by
10 this act, for the intended father and intended mother to
11 assert full parental rights and responsibilities to the child
12 if consent to adoption is not rescinded after birth by the
13 volunteer mother, and for the volunteer mother to terminate,
14 subject to a right of rescission, in favor of the intended
15 father and intended mother all her parental rights and
16 responsibilities to the child.

17 i. "Volunteer mother" means a female person at least
18 18 years of age who voluntarily agrees, subject to a right of
19 rescission, that if she should become pregnant pursuant to a
20 preplanned adoption arrangement, she will terminate in favor
21 of the intended father and intended mother her parental rights
22 and responsibilities to the child.

23 (2)(a) It is unlawful for any person under this
24 chapter to:

- 25 1. Knowingly provide false information; or
26 2. Knowingly withhold material information.

27 (b) It is unlawful for a parent, with the intent to
28 defraud, to accept benefits related to the same pregnancy from
29 more than one adoption entity without disclosing that fact to
30 each entity.

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1 (c) It is unlawful for any person who knows that the
2 parent whose rights are to be terminated intends to object to
3 said termination to intentionally file the petition for
4 termination of parental rights in a county inconsistent with
5 the required venue under such circumstances.

6
7 Any person who willfully violates any provision of this
8 subsection commits a misdemeanor of the second degree,
9 punishable as provided in s. 775.082 or s. 775.083. In
10 addition, such person is liable for damages caused by such
11 acts or omissions, including reasonable attorney's fees and
12 costs. Damages may be awarded through restitution in any
13 related criminal prosecution or by filing a separate civil
14 action.

15 ~~(3)(2)~~ This section does not ~~Nothing herein shall be~~
16 ~~construed to prohibit~~ an adoption entity a licensed
17 ~~child-placing agency~~ from charging fees permitted under this
18 chapter and reasonably commensurate to the services provided.

19 ~~(4)(3)~~ It is unlawful for any adoption entity
20 ~~intermediary~~ to fail to report to the court, prior to
21 placement, the intended placement of a minor child for
22 purposes of adoption with any person not a stepparent or a
23 relative within the third degree, if the adoption entity
24 ~~intermediary~~ participates in such intended placement.

25 ~~(5)(4)~~ It is unlawful for any adoption entity
26 ~~intermediary~~ to charge any fee except those fees permitted
27 under s. 63.097 and approved under s. 63.102 ~~over \$1,000 and~~
28 ~~those costs as set out in paragraph (1)(d) over \$2,500, other~~
29 ~~than for actual documented medical costs, court costs, and~~
30 ~~hospital costs unless such fee is approved by the court prior~~
31

1 ~~to the assessment of the fee by the intermediary and upon a~~
2 ~~showing of justification for the larger fee.~~

3 (6)(5) It is unlawful for any adoption entity
4 ~~intermediary~~ to counsel a birth mother to leave the state for
5 the purpose of giving birth to a child outside the state in
6 order to secure a fee in excess of that permitted under s.
7 63.097 when it is the intention that the child be placed for
8 adoption outside the state.

9 (7)(6) It is unlawful for any adoption entity
10 ~~intermediary~~ to obtain a preliminary home study or final home
11 investigation and fail to disclose the existence of the study
12 or investigation to the court.

13 (8)(7) Unless otherwise indicated, a person who
14 violates any provision of this section, excluding paragraph
15 (1)(g)(h), commits is guilty of a felony of the third degree,
16 punishable as provided in s. 775.082, s. 775.083, or s.
17 775.084. A person who violates paragraph (1)(g)(h) commits is
18 ~~guilty of~~ a misdemeanor of the second degree, punishable as
19 provided in s. 775.083; and each day of continuing violation
20 shall be considered a separate offense.

21 Section 32. Section 63.219, Florida Statutes, is
22 amended to read:

23 63.219 Sanctions.--Upon a finding by the court that an
24 adoption entity intermediary or agency has violated any
25 provision of this chapter, the court is authorized to prohibit
26 the adoption entity intermediary or agency from placing a
27 minor for adoption in the future.

28 Section 33. Section 63.2325, Florida Statutes, is
29 created to read:

30 63.2325 Conditions for revocation of a consent to
31 adoption or affidavit of nonpaternity.--Notwithstanding the

1 requirements of this chapter, a failure to meet any of those
2 requirements does not constitute grounds for revocation of a
3 consent to adoption or withdrawal of an affidavit of
4 nonpaternity unless the extent and circumstances of such a
5 failure result in a material failure of fundamental fairness
6 in the administration of due process, or the failure
7 constitutes or contributes to fraud or duress in obtaining a
8 consent to adoption or affidavit of nonpaternity.

9 Section 34. Subsection (39) of section 984.03, Florida
10 Statutes, is amended to read:

11 984.03 Definitions.--When used in this chapter, the
12 term:

13 (39) "Parent" means a woman who gives birth to a child
14 and a man whose consent to the adoption of the child would be
15 required under s. 63.062(1)~~(b)~~. If a child has been legally
16 adopted, the term "parent" means the adoptive mother or father
17 of the child. The term does not include an individual whose
18 parental relationship to the child has been legally
19 terminated, or an alleged or prospective parent, unless the
20 parental status falls within the terms of either s. 39.503(1)
21 or s. 63.062(1)~~(b)~~.

22 Section 35. Subsection (40) of section 985.03, Florida
23 Statutes, is amended to read:

24 985.03 Definitions.--When used in this chapter, the
25 term:

26 (40) "Parent" means a woman who gives birth to a child
27 and a man whose consent to the adoption of the child would be
28 required under s. 63.062(1)~~(b)~~. If a child has been legally
29 adopted, the term "parent" means the adoptive mother or father
30 of the child. The term does not include an individual whose
31 parental relationship to the child has been legally

1 terminated, or an alleged or prospective parent, unless the
2 parental status falls within the terms of either s. 39.503(1)
3 or s. 63.062(1)(b).

4 Section 36. Section 63.072, Florida Statutes, is
5 repealed.

6 Section 37. Any petition for adoption filed before
7 October 1, 2001, shall be governed by the law in effect at the
8 time the petition was filed.

9 Section 38. If any provision of this act or the
10 application thereof to any person or circumstance is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the act which can be given effect without the
13 invalid provision or application, and to this end the
14 provisions of this act are declared severable.

15 Section 39. Section 395.1024, F.S., is created to
16 read:

17 395.1024 Patients Consenting to Adoptions; Protocols

18 (1) Each licensed facility shall adopt a protocol that
19 at a minimum provides for facility staff to be knowledgeable
20 of the waiting periods, revocation and the contents of the
21 consent to adoption as contained in s. 63.082(4), and
22 describes the supportive and unbiased manner in which facility
23 staff will interact with birth parents and prospective
24 adoptive parents regarding the adoption, in particular during
25 the waiting period required in s. 63.082(4)(b) before
26 consenting to an adoption.

27 (2) The protocol shall be in writing and be provided
28 upon request to any birth parent or prospective adoptive
29 parent of a child born in the facility.

30 Section 40. Section 383.310, F.S., is created to read:

31

1 383.310, F.S., Patients Consenting to Adoptions;

2 Protocols

3 (1) Each licensed facility shall adopt a protocol that
4 at a minimum provides for facility staff to be knowledgeable
5 of the waiting periods, revocation and the contents of the
6 consent to adoption as contained in s. 63.082(4), and
7 describes the supportive and unbiased manner in which facility
8 staff will interact with birth parents and prospective
9 adoptive parents regarding the adoption, in particular during
10 the waiting period required in s. 63.082(4)(b) before
11 consenting to an adoption.

12 (2) The protocol shall be in writing and be provided
13 upon request to any birth parent or prospective adoptive
14 parent of a child born in the facility.

15 Section 41. This act shall take effect October 1,
16 2001.

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