

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to adoption; amending s. 63.022, F.S.;
7 providing legislative intent; amending s. 63.032, F.S.;
8 redefining terms and defining the term "primarily lives
9 and works in Florida"; amending s. 63.039, F.S.; requiring
10 an adoption entity to diligently search for a person whose
11 consent is required for the adoption; amending s. 63.0423,
12 F.S.; providing that a judgment of adoption is voidable
13 under certain circumstances if a court finds that a person
14 whose consent is required gave false information; amending
15 s. 63.0425, F.S.; providing a grandparent's right to
16 notice; amending s. 63.052, F.S.; providing that a court
17 in this state retains jurisdiction until the adoption is
18 finalized in this state or in another state; amending s.
19 63.053, F.S.; providing that if an unmarried biological
20 father fails to take the actions that are available to him
21 to establish a relationship with his child, his parental
22 interest may be lost entirely; amending s. 63.054, F.S.;
23 requiring adoption entity to provide certain information

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24 | to the Department of Health; providing that if a putative
25 | father fails to report a change of address to the Florida
26 | Putative Father Registry, the failure is not a valid
27 | defense based upon lack of notice and the adoption entity
28 | or adoption petitioner is not obligated to search further
29 | for the registrant; providing that if a father who is
30 | required to consent to an adoption does not know the
31 | county in which the birth mother resides, gave birth, or
32 | intends to give birth, he may initiate an action in any
33 | county in the state; amending s. 63.062, F.S.; providing
34 | that an adoption agency may file a notice of an intended
35 | adoption plan at any time before the birth of the child or
36 | before placing the child in the adoptive home; requiring
37 | an adoption entity to make a good faith effort to locate
38 | the putative father; providing when an adoption entity has
39 | no further obligation to search for the putative father;
40 | providing for the proper venue to file a petition to
41 | terminate parental rights; amending s. 63.082, F.S.;
42 | providing that notice and consent provisions do not apply
43 | in cases where the child was conceived as a result of a
44 | violation of certain criminal statutes; limiting
45 | revocation of a consent to adopt to 3 days if the child is
46 | older than 6 months of age; authorizing a court to
47 | transfer a child to the prospective adoptive parents under
48 | certain circumstances; requiring the adoption entity to
49 | file a petition for adoption or termination of parental
50 | rights after the transfer of the child; amending s.
51 | 63.085, F.S.; revising provision relating to who may sign

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52 | a valid consent for adoption; amending s. 63.087, F.S.;

53 | providing procedures to terminate parental rights pending

54 | an adoption; providing the proper venue in which to file a

55 | petition to terminate parental rights; requiring a person

56 | to answer the petition and to appear at the hearing for

57 | termination of parental rights; amending s. 63.088, F.S.;

58 | requiring the court to conduct an inquiry concerning the

59 | father of the child who is to be adopted; revising

60 | requirements for notice concerning the termination of

61 | parental rights; requiring persons contacted by a

62 | petitioner or adoption entity to release certain

63 | information; amending s. 63.089, F.S.; revising provisions

64 | relating to service of notice and petition regarding

65 | termination of parental rights and consent to adoption;

66 | requiring that certain scientific testing to determine

67 | paternity comply with state law; amending s. 63.092, F.S.;

68 | providing that if an adoption entity fails to file the

69 | report of its intended placement within the specified time

70 | period the failure does not constitute grounds to deny the

71 | petition for termination of parental rights or adoption

72 | under certain circumstances; identifying additional

73 | individuals who may perform a home study; providing an

74 | exception if the person to be adopted is an adult;

75 | amending s. 63.102, F.S.; revising procedures for the

76 | filing of a petition for adoption; providing the proper

77 | venue where the petition may be filed; amending s. 63.112,

78 | F.S.; revising language requiring that a certified copy of

79 | a judgment terminating parental rights be filed at the

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80 same time the petition is filed; amending s. 63.122, F.S.;
81 providing that certain information may be removed from the
82 petition; amending s. 63.125, F.S.; providing certain
83 licensed professionals may conduct the final home
84 investigation; amending s. 63.132, F.S.; providing
85 exceptions to the requirement that the adoptive parent and
86 the adoption entity file an affidavit itemizing all
87 expenses and receipts; amending s. 63.135, F.S.; requiring
88 the adoption entity or petitioner to file an affidavit
89 under the Uniform Child Custody Jurisdictional and
90 Enforcement Act; revising information required to be
91 submitted under oath to the court; amending s. 63.142,
92 F.S.; requiring that if an adoption petition is dismissed,
93 any further proceedings regarding the minor be brought in
94 a separate custody action under ch. 61, F.S., a dependency
95 action under ch. 39, F.S., or a paternity action under ch.
96 742, F.S.; amending s. 63.152, F.S.; requiring the clerk
97 of court to transmit a certified statement of the adoption
98 to the state where the child was born; amending s. 63.162,
99 F.S.; authorizing the birth parent to release his or her
100 name under certain circumstances; authorizes a court to
101 permit certain entities to contact a birth parent to
102 advise him or her of the adoptee's request to open the
103 file or the adoption registry and provide the opportunity
104 to waive confidentiality and consent to the opening of
105 records; providing requirements for release of an original
106 sealed birth certificate; amending s. 63.172, F.S.;
107 granting rights of inheritance when a judgment of adoption

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108 | has been entered; amending s. 63.192, F.S.; requiring the
109 | courts of this state to recognize decrees of termination
110 | of parental rights and adoptions from other states and
111 | countries; amending s. 63.207, F.S.; revising provisions
112 | relating to out-of-state placement of minors; amending s.
113 | 63.212, F.S.; revising acts that are unlawful pertaining
114 | to adoptions; providing penalties; amending s. 63.213,
115 | F.S.; prohibiting an attorney from representing the
116 | volunteer mother and the intended mother in a preplanned
117 | adoption arrangement; providing penalties and sanctions
118 | for payment of finder's fees in certain preplanned
119 | adoption agreements; revising the definition of "fertility
120 | technique"; amending s. 63.219, F.S.; providing sanctions
121 | for persons who violate ch. 63, F.S.; creating s. 63.236,
122 | F.S.; providing that any petition for termination of
123 | parental rights filed before the effective date of the act
124 | is governed by the law in effect at the time the petition
125 | was filed; amending s. 409.166, F.S.; redefining the term
126 | "special needs child" to remove children of racially mixed
127 | parentage; providing for participation by adoption
128 | intermediaries in the adoption program for special needs
129 | children administered by the Department of Children and
130 | Family Services; amending s. 409.176, F.S.; providing that
131 | licensing provisions do not apply to certain licensed
132 | child-placing agencies; amending s. 742.14, F.S.;
133 | providing that the donor of an embryo relinquishes all
134 | parental rights and obligations to the embryo or the
135 | resulting children at the time of the donation; amending

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136 s. 742.15, F.S.; authorizing a physician in a state
 137 outside this state to advise a commissioning couple
 138 concerning a gestational surrogate; amending s. 742.16,
 139 F.S.; revising requirements for affirmation of parental
 140 status for gestational surrogacy; creating s. 742.18, F.S;
 141 prohibiting a person or entity, except a licensed
 142 physician, fertility clinic, or attorney, from doing
 143 certain specified acts; prohibiting a person other than a
 144 licensed physician, fertility clinic, or attorney from
 145 accepting a fee for finding, screening, matching, or
 146 facilitating a donor or gestational carrier arrangement;
 147 providing that if a person willfully violates the section
 148 he or she commits a misdemeanor of the second degree;
 149 providing criminal penalties; providing that if a person
 150 violates the section he or she is liable for damages
 151 caused by his or her acts or omissions and for reasonable
 152 attorney's fees and costs; providing an effective date.

153

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

155

156 Section 1. Paragraph (e) of subsection (4) and subsection
 157 (5) of section 63.022, Florida Statutes, are amended to read:

158 63.022 Legislative intent.--

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

161 (e) A sufficient period of time elapses during which the
 162 minor has lived within the proposed adoptive home under the

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163 guidance of an adoption entity, except stepparent adoptions or
164 relative adoptions ~~of a relative~~.

165 (5) It is the intent of the Legislature to provide for
166 cooperation between private adoption entities and the Department
167 of Children and Family Services in matters relating to permanent
168 placement options for children in the care of the department
169 whose parent or legal custodian wishes ~~birth parents wish~~ to
170 participate in a private adoption plan with a qualified family.

171 Section 2. Section 63.032, Florida Statutes, is amended to
172 read:

173 63.032 Definitions.--As used in this chapter, the term:

174 (1) "Abandoned" means a situation in which the parent or
175 person having legal custody of a child, while being able, makes
176 no provision for the child's support and makes little or no
177 effort to communicate with the child, which situation is
178 sufficient to evince an intent to reject parental
179 responsibilities. If, in the opinion of the court, the efforts
180 of the ~~such~~ parent or person having legal custody of the child
181 to support and communicate with the child are only marginal
182 efforts that do not evince a settled purpose to assume all
183 parental duties, the court may declare the child to be
184 abandoned. In making this decision, the court may consider the
185 conduct of a father towards the child's mother during her
186 pregnancy.

187 (2) "Adoption" means the act of creating the legal
188 relationship between parent and child where it did not exist,
189 thereby declaring the child to be legally the child of the
190 adoptive parents and their heir at law and entitled to all the

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191 | rights and privileges and subject to all the obligations of a
192 | child born to the ~~such~~ adoptive parents in lawful wedlock.

193 | (3) "Adoption entity" means the department, an agency, a
194 | child-caring agency registered under s. 409.176, an
195 | intermediary, an attorney licensed in another state placing a
196 | child from another state into this state, or a child-placing
197 | agency licensed in another state which is placing a child from
198 | another state into this state and is qualified by the department
199 | to place children in the State of Florida.

200 | (4) "Adoption plan" means an arrangement made by a birth
201 | parent or other individual having a legal right to custody of a
202 | minor child, born or to be born, with an adoption entity in
203 | furtherance of placing the minor child for adoption.

204 | (5)-(4) "Adult" means a person who is not a minor.

205 | (6)-(5) "Agency" means any child-placing agency licensed by
206 | the department under ~~pursuant to~~ s. 63.202 to place minors for
207 | adoption.

208 | (7)-(6) "Child" means a son or daughter, whether by birth
209 | or adoption.

210 | (8)-(7) "Court" means any circuit court of this state and,
211 | when the context requires, the court of any state that is
212 | empowered to grant petitions for adoption.

213 | (9)-(8) "Department" means the Department of Children and
214 | Family Services.

215 | (10)-(9) "Intermediary" means an attorney who is licensed
216 | or authorized to practice in this state and who is placing or
217 | intends to place a child for adoption, including placing
218 | children born in another state with citizens of this state or

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219 country or placing children born in this state with citizens of
220 another state or country.

221 (11)-(10) "Legal custody" means a legal status created by
222 court order or letter of guardianship which vests in a custodian
223 of the child or guardian, whether an agency or an individual,
224 the right to have physical custody of the child and the right
225 and duty to protect, train, and discipline the child and to
226 provide him or her with food, shelter, education, and ordinary
227 medical, dental, psychiatric, and psychological care. The legal
228 custodian is the person or entity in whom the legal right to
229 custody is vested ~~has the meaning ascribed in s. 39.01.~~

230 (12)-(11) "Minor" means a person under the age of 18 years.

231 (13)-(12) "Parent" means a woman who gives birth to a child
232 and a man whose consent to the adoption of the child would be
233 required under s. 63.062. If a child has been legally adopted,
234 the term "parent" means the adoptive mother or father of the
235 child. The terms "parent," "mother," and "father" do not include
236 an individual whose parental relationship to the child has been
237 legally terminated ~~has the same meaning ascribed in s. 39.01.~~

238 (14)-(13) "Person" has the same meaning as in s. 1.01
239 ~~includes a natural person, corporation, government or~~
240 ~~governmental subdivision or agency, business trust, estate,~~
241 ~~trust, partnership, or association, and any other legal entity.~~

242 (15)-(14) "Relative" means a person related by blood to the
243 person being adopted within the third degree of consanguinity.

244 (16)-(15) "To place" or "placement" means the process of a
245 parent or legal guardian surrendering a child for adoption and
246 the prospective adoptive parents receiving and adopting the

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247 child, and includes all actions by any person or adoption entity
248 participating in the process.

249 (17) "Primarily lives and works in Florida" means a person
250 who lives and works in this state at least 6 months and 1 day of
251 the year, military personnel who designate Florida as their
252 place of residence in accordance with the Servicemembers Civil
253 Relief Act, Pub. L. No. 108-189, or citizens of the United
254 States living in a foreign country who designate Florida as
255 their place of residence.

256 ~~(16) "Placement" means the process of a parent or legal~~
257 ~~guardian surrendering a child for adoption and the prospective~~
258 ~~adoptive parents receiving and adopting the child and all~~
259 ~~actions by any adoption entity participating in placing the~~
260 ~~child.~~

261 (18)-(17) "Primarily lives and works outside Florida" means
262 a person who lives and works outside this state at least 6
263 months and 1 day of the year, military personnel who designate a
264 state other than Florida as their place of residence in
265 accordance with the Servicemembers Civil Relief Act, Pub. L. No.
266 108-189 Soldiers' and Sailors' Civil Relief Act of 1940, or
267 citizens employees of the United States Department of State
268 living in a foreign country who designate a state other than
269 Florida as their place of residence and who do not reside in
270 Florida for 6 months and one day of the year.

271 (19)-(18) "Suitability of the intended placement" includes
272 the fitness of the intended placement, with primary
273 consideration being given to the best interest of the child.

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274 ~~(20)~~~~(19)~~ "Unmarried biological father" means the child's
275 biological father who is not married to the child's mother at
276 the time of conception or birth of the child and who has not
277 been declared by a court of competent jurisdiction to be the
278 legal father of the child.

279 ~~(20)~~ "~~Adoption plan~~" means ~~arrangements made by a birth~~
280 ~~parent or other individual having a legal right to custody of a~~
281 ~~minor child, born or to be born, with an adoption entity in~~
282 ~~furtherance of the placement of the minor for adoption.~~

283 Section 3. Paragraphs (f), (g), and (i) of subsection (1)
284 of section 63.039, Florida Statutes, are amended to read:

285 63.039 Duty of adoption entity to prospective adoptive
286 parents; sanctions.--

287 (1) An adoption entity placing a minor for adoption has an
288 affirmative duty to follow the requirements of this chapter and
289 specifically the following provisions, which protect and promote
290 the well-being of persons being adopted and their parents and
291 prospective adoptive parents by promoting certainty, finality,
292 and permanency for such persons. The adoption entity must:

293 (f) Obtain and file the affidavit of inquiry under
294 ~~pursuant to~~ s. 63.088(4), if the required inquiry is not
295 conducted orally in the presence of the court.

296 (g) When the identity of a person whose consent to
297 adoption is required ~~necessary~~ under this chapter is known but
298 the location of such a person is unknown, conduct the diligent
299 search and file the affidavit required under s. 63.088(5).

300 (i) Obtain the written waiver of venue if applicable
301 ~~required~~ under s. 63.062 ~~in cases in which venue for the~~

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302 ~~termination of parental rights will be located in a county other~~
 303 ~~than the county where a parent whose rights are to be terminated~~
 304 ~~resides.~~

305 Section 4. Subsection (9) of section 63.0423, Florida
 306 Statutes, is amended to read:

307 63.0423 Procedures with respect to abandoned infants.--

308 (9) (a) A judgment terminating parental rights pending
 309 adoption involving a minor who was abandoned pursuant to this
 310 section is voidable, and any later judgment of adoption of that
 311 minor is voidable, if, upon the motion of a ~~birth~~ parent whose
 312 consent is required for adoption, the court finds that a person
 313 knowingly gave false information that prevented the ~~birth~~ parent
 314 from timely making known his or her desire to assume parental
 315 responsibilities toward the minor or from exercising his or her
 316 parental rights. A motion under this subsection must be filed
 317 with the court originally entering the judgment. The motion must
 318 be filed within a reasonable time, but not later than 1 year
 319 after the entry of the judgment terminating parental rights.

320 (b) No later than 30 days after the filing of a motion
 321 under this subsection, the court shall conduct a preliminary
 322 hearing to determine what contact, if any, will be permitted
 323 between a ~~birth~~ parent and the child pending resolution of the
 324 motion. The ~~Such~~ contact may be allowed only if it is requested
 325 by a parent who has appeared at the hearing and the court
 326 determines that it is in the best interest of the child. If the
 327 court orders contact between a ~~birth~~ parent and child, the order
 328 must be issued in writing as expeditiously as possible and must
 329 state with specificity the terms ~~any provisions~~ regarding

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330 contact with persons other than those with whom the child
331 resides.

332 (c) At the preliminary hearing, the court, upon the motion
333 of any party or upon its own motion, may order scientific
334 testing to determine the paternity or maternity of the minor if
335 the parent ~~person~~ seeking to set aside the judgment is alleging
336 to be the child's ~~birth~~ parent but has not previously been
337 determined by legal proceedings or scientific testing to be the
338 ~~birth~~ parent. Upon the filing of test results establishing that
339 parent's ~~person's~~ maternity or paternity of the abandoned
340 infant, the court may order visitation as it deems appropriate
341 and in the best interest of the child.

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

346 Section 5. Section 63.0425, Florida Statutes, is amended
347 to read:

348 63.0425 Grandparent's right to notice ~~adopt~~.--

349 (1) When a child has lived with a grandparent for at least
350 6 months within the 24-month period immediately preceding the
351 filing of a petition for termination of parental rights pending
352 adoption, the adoption entity shall provide notice to that
353 grandparent of the hearing on the petition for termination of
354 parental rights pending adoption.

355 (2) This section shall not apply if the placement for
356 adoption is a result of the death of the child's parent and a
357 different preference is stated in the parent's will.

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358 (3) This section shall not apply in stepparent adoptions.

359 (4) Nothing in this section shall contravene the
360 provisions of s. 63.142(4).

361 Section 6. Subsections (1) and (7) of section 63.052,
362 Florida Statutes, are amended to read:

363 63.052 Guardians designated; proof of commitment.--

364 (1) For minors who have been placed for adoption with ~~and~~
365 ~~permanently committed to~~ an adoption entity, other than an
366 intermediary, such adoption entity shall be the guardian of the
367 person of the minor and has the responsibility and authority to
368 provide for the needs and welfare of the minor.

369 (7) The court retains jurisdiction of a minor who has been
370 placed for adoption until the adoption is finalized within or
371 outside this state ~~final~~. After a minor is placed with an
372 adoption entity or prospective adoptive parent, the court may
373 review the status of the minor and the progress toward permanent
374 adoptive placement.

375 Section 7. Subsection (1) of section 63.053, Florida
376 Statutes, is amended to read:

377 63.053 Rights and responsibilities of an unmarried
378 biological father; legislative findings.--

379 (1) In enacting ~~the provisions contained in~~ this chapter,
380 the Legislature prescribes the conditions for determining
381 whether an unmarried biological father's actions are
382 sufficiently prompt and substantial so as to require protection
383 of a constitutional right. If an unmarried biological father
384 fails to take the actions that are available to him to establish
385 a relationship with his child, his parental interest may be lost

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386 | ~~entirely, or greatly diminished,~~ by his failure to timely comply
387 | with the available legal steps to substantiate a parental
388 | interest.

389 | Section 8. Subsections (1), (5), (6), (7), and (8) of
390 | section 63.054, Florida Statutes, are amended to read:

391 | 63.054 Actions required by an unmarried biological father
392 | to establish parental rights; Florida Putative Father
393 | Registry.--

394 | (1) In order to preserve the right to notice and consent
395 | to an adoption under this chapter, an unmarried biological
396 | father must, as the "registrant," file a notarized claim of
397 | paternity form with the Florida Putative Father Registry
398 | maintained by the Office of Vital Statistics of the Department
399 | of Health and shall include therein confirmation of his
400 | willingness and intent to support the child for whom paternity
401 | is claimed in accordance with state law. The claim of paternity
402 | may be filed at any time prior to the child's birth, but a claim
403 | of paternity may not be filed after the date a petition is filed
404 | for termination of parental rights. The adoption entity shall
405 | provide the Department of Health with a notification of filing
406 | the petition for termination of parental rights. The Department
407 | of Health shall adopt by rule a form to be completed by the
408 | clerk of the court for notification of filing a petition for
409 | termination of parental rights.

410 | (5) The registrant may, at any time prior to the birth of
411 | the child for whom paternity is claimed, execute a notarized
412 | written revocation of the claim of paternity previously filed
413 | with the Florida Putative Father Registry, and upon receipt of

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414 such revocation, the claim of paternity shall be deemed null and
415 void. If a court determines that a registrant is not the father
416 of the minor or has no parental rights, the court shall order
417 the department to remove the registrant's name from the
418 registry.

419 (6) It is the obligation of the registrant or, if
420 designated under subsection (4), his designated agent or
421 representative to notify and update the Office of Vital
422 Statistics of any change of address or change in the designation
423 of an agent or representative. The failure of a registrant, or
424 designated agent or representative, to report any ~~such~~ change is
425 at the registrant's own risk and shall not serve as a valid
426 defense based upon lack of notice, and the adoption entity or
427 petitioner shall have no further obligation to search for the
428 registrant unless the person petitioning for termination of
429 parental rights or adoption has actual ~~or constructive~~ notice of
430 the registrant's address and whereabouts from another source.

431 (7) In each proceeding for termination of parental rights
432 or each adoption proceeding in which parental rights are being
433 terminated simultaneously with entry of the final judgment of
434 adoption, as in stepparent and relative adoptions filed under
435 this chapter, the petitioner must contact the Office of Vital
436 Statistics of the Department of Health by submitting an
437 application for a search of the Florida Putative Father
438 Registry. The petitioner shall provide the same information, if
439 known, on the search application form which the registrant is
440 required to furnish under subsection (3). Thereafter, the Office

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441 of Vital Statistics must issue a certificate signed by the State
442 Registrar certifying:

443 (a) The identity and contact information, if any, for each
444 registered unmarried biological father whose information matches
445 the search request sufficiently so that the ~~such~~ person may be
446 considered a possible father of the subject child; or

447 (b) That a diligent search has been made of the registry
448 of registrants who may be the unmarried biological father of the
449 subject child and that no matching registration has been located
450 in the registry.

451
452 The ~~This~~ certificate must be filed with the court in the
453 proceeding to terminate parental rights or the adoption
454 proceeding. If a termination of parental rights and an adoption
455 proceeding are being adjudicated separately ~~simultaneously~~, the
456 Florida Putative Father Registry need only be searched once.

457 (8) If an unmarried biological father does not know the
458 county in which the birth mother resides, gave birth, or intends
459 to give birth, he may initiate an action in any county in the
460 state, subject to the court's discretion to change venue in
461 accordance with s. 63.087 ~~subject to the birth mother's right to~~
462 ~~change venue to the county where she resides.~~

463 Section 9. Subsections (2), (3), (4), (8), and (9) of
464 section 63.062, Florida Statutes, are amended to read:

465 63.062 Persons required to consent to adoption; affidavit
466 of nonpaternity; waiver of venue.--

467 (2) In accordance with subsection (1), the consent of an
468 unmarried biological father shall be required ~~necessary~~ only if

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469 | the unmarried biological father has complied with the
470 | requirements of this subsection.

471 | (a)1. With regard to a child who is placed with adoptive
472 | parents more than 6 months after the child's birth, an unmarried
473 | biological father must have developed a substantial relationship
474 | with the child, taken some measure of responsibility for the
475 | child and the child's future, and demonstrated a full commitment
476 | to the responsibilities of parenthood by providing financial
477 | support to the child in accordance with the unmarried biological
478 | father's ability, if not prevented from doing so by the person
479 | or authorized agency having lawful custody of the child, and
480 | either:

481 | a. Regularly visited the child at least monthly, when
482 | physically and financially able to do so and when not prevented
483 | from doing so by the birth mother or the person or authorized
484 | agency having lawful custody of the child; or

485 | b. Maintained regular communication with the child or with
486 | the person or agency having the care or custody of the child,
487 | when physically or financially unable to visit the child and ~~or~~
488 | when not prevented from doing so by the birth mother or person
489 | or authorized agency having lawful custody of the child.

490 | 2. The mere fact that an unmarried biological father
491 | expresses a desire to fulfill his responsibilities towards his
492 | child which is unsupported by acts evidencing this intent does
493 | not preclude a finding by the court that the unmarried
494 | biological father failed to comply with the requirements of this
495 | subsection.

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496 3. An unmarried biological father who openly lived with
497 the child for at least 6 months within the 1-year period
498 following the birth of the child and immediately preceding
499 placement of the child with adoptive parents and who openly held
500 himself out to be the father of the child during that period
501 shall be deemed to have developed a substantial relationship
502 with the child and to have otherwise met the requirements of
503 this paragraph.

504 (b) With regard to a child who is younger than 6 months of
505 age at the time the child is placed with the adoptive parents,
506 an unmarried biological father must have demonstrated a full
507 commitment to his parental responsibility by having performed
508 all of the following acts before ~~prior to~~ the time the mother
509 executes her consent for adoption or a petition for termination
510 of parental rights has been filed, whichever is earlier:

511 1. Filed a notarized claim of paternity form with the
512 Florida Putative Father Registry within the Office of Vital
513 Statistics of the Department of Health, which form shall be
514 maintained in the confidential registry established for that
515 purpose and shall be considered filed when the notice is entered
516 in the registry of notices from unmarried biological fathers.

517 2. Upon service of a notice of an intended adoption plan
518 or a petition for termination of parental rights pending
519 adoption, timely execute ~~executed~~ and file ~~filed~~ an affidavit in
520 that proceeding stating that he is personally fully able and
521 willing to take responsibility for the child, setting forth his
522 plans for care of the child, and agreeing to a court order of
523 child support and a contribution to the payment of living and

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524 | medical expenses incurred for the mother's pregnancy and the
525 | child's birth in accordance with his ability to pay.

526 | 3. If he had knowledge of the pregnancy, paid a fair and
527 | reasonable amount of the expenses incurred in connection with
528 | the mother's pregnancy and the child's birth, in accordance with
529 | his financial ability and when not prevented from doing so by
530 | the birth mother or person or authorized agency having lawful
531 | custody of the child.

532 | (c) The petitioner shall file with the court a certificate
533 | from the Office of Vital Statistics stating that a diligent
534 | search has been made of the Florida Putative Father Registry of
535 | notices from unmarried biological fathers described in
536 | subparagraph (b)1. and that no filing has been found pertaining
537 | to the father of the child in question or, if a filing is found,
538 | stating the name of the putative father and the time and date of
539 | filing. That certificate shall be filed with the court before
540 | ~~prior to~~ the entry of a final judgment of termination of
541 | parental rights.

542 | (d) An unmarried biological father who does not comply
543 | with each of the conditions provided in this subsection is
544 | deemed to have irrevocably waived and surrendered any rights in
545 | relation to the child, including the right to notice of any
546 | judicial proceeding in connection with the adoption of the
547 | child, and his consent to the adoption of the child is not
548 | required.

549 | (3) (a) Under ~~Pursuant to~~ chapter 48, an adoption entity
550 | may serve upon any unmarried biological father identified by the
551 | mother or identified by a diligent search of the Florida

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552 Putative Father Registry, or upon an entity whose consent is
553 required, a notice of intended adoption plan at any time before
554 the child's birth or before placing ~~prior to the placement of~~
555 the child in the adoptive home, ~~including prior to the birth of~~
556 ~~the child~~. The notice of intended adoption plan must
557 specifically state that if the unmarried biological father
558 desires to contest the adoption plan, he must file with the
559 court, within 30 days after service, a verified response that
560 contains a pledge of commitment to the child in substantial
561 compliance with subparagraph (2)(b)2. The notice of intended
562 adoption plan shall notify the unmarried biological father that,
563 if he has not already done so, he must file a claim of paternity
564 form with the Office of Vital Statistics within 30 days after
565 service upon him and must provide the adoption entity with a
566 copy of the verified response filed with the court and the claim
567 of paternity form filed with the Office of Vital Statistics. If
568 the party served with the notice of intended adoption plan is an
569 entity, the entity must file, within 30 days after service, a
570 verified response setting forth a legal basis for contesting the
571 intended adoption plan, specifically addressing the best
572 interest of the child. If the adoption entity whose consent is
573 required or the unmarried biological father ~~or entity~~ whose
574 consent is required fails to properly file a verified response
575 with the court and, in the case of an unmarried biological
576 father, a claim of paternity form with the Office of Vital
577 Statistics within 30 days after service upon that unmarried
578 biological father or entity whose consent is required, the
579 consent of that unmarried biological father or entity is not

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580 ~~shall no longer be~~ required under this chapter and that party
581 shall be deemed to have irrevocably waived any claim of rights
582 to the child. Each notice of intended adoption plan served upon
583 an unmarried biological father must include instructions as to
584 the procedure the unmarried biological father must follow to
585 submit a claim of paternity form to the Office of Vital
586 Statistics and the address to which the registration must be
587 directed.

588 (b) If the birth mother identifies a man who she believes
589 is the unmarried biological father of her child, the adoption
590 entity may provide a notice of intended adoption plan pursuant
591 to paragraph (a). If the mother identifies a potential unmarried
592 biological father whose location is unknown, the adoption entity
593 shall conduct a diligent search pursuant to s. 63.088. If, upon
594 completion of a diligent search, the potential unmarried
595 biological father's location remains unknown and a search of the
596 Florida Putative Father Registry fails to reveal a match, the
597 adoption entity shall request in the petition for termination of
598 parental rights pending adoption that the court declare the
599 diligent search to be in compliance with s. 63.088 and to
600 further declare that the adoption entity shall have no further
601 obligation to provide notice to the potential unmarried
602 biological father and that the potential unmarried biological
603 father's consent to the adoption shall not be required.

604 (4) Any person whose consent is required under paragraph
605 (1) (b), or any other man, ~~paragraphs (1) (c) (e)~~ may execute an
606 irrevocable affidavit of nonpaternity in lieu of a consent under
607 this section and by doing so waives notice to all court

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608 | proceedings after the date of execution. An affidavit of
 609 | nonpaternity must be executed as provided in s. 63.082. The
 610 | affidavit of nonpaternity may be executed before ~~prior to~~ the
 611 | birth of the child. The person executing the affidavit must
 612 | receive disclosure under s. 63.085 before ~~prior to~~ signing the
 613 | affidavit.

614 | (8) A petition to adopt an adult may be granted if:
 615 | (a) Written consent to adoption has been executed by the
 616 | adult ~~and the adult's spouse, if any.~~

617 | (b) Written notice of the final hearing on the adoption
 618 | has been provided to the parents, if any, or proof of service of
 619 | process has been filed, showing notice has been served on the
 620 | parents as provided in this chapter.

621 | (9) A petition for termination of parental rights shall be
 622 | filed in the appropriate county as determined under s.
 623 | 63.087(2). If any ~~the parent or parents~~ whose consent is
 624 | required objects ~~rights are to be terminated object~~ to venue in
 625 | the county where the action was filed, the court may transfer
 626 | venue to a proper venue consistent with this chapter and chapter
 627 | 47 ~~the action to the county where the objecting parent or~~
 628 | ~~parents reside~~, unless the objecting parent has previously
 629 | executed a waiver of venue.

630 | Section 10. Paragraph (d) of subsection (1), paragraphs
 631 | (b), (c), and (e) of subsection (4), subsections (5) and (6),
 632 | and paragraphs (a), (b), (c), (d), and (f) of subsection (7) of
 633 | section 63.082, Florida Statutes, are amended to read:

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634 63.082 Execution of consent to adoption or affidavit of
635 nonpaternity; family social and medical history; withdrawal of
636 consent.--

637 (1)

638 (d) The notice and consent provisions of this chapter as
639 they relate to the birth of a child or to legal fathers do not
640 apply in cases in which the child is conceived as a result of a
641 violation of the criminal laws of this or another state,
642 including, but not limited to, sexual battery, unlawful sexual
643 activity with certain minors under s. 794.05, lewd acts
644 perpetrated upon a minor, or incest.

645 (4)

646 (b) A consent to the adoption of a minor who is to be
647 placed for adoption shall not be executed by the birth mother
648 sooner than 48 hours after the minor's birth or the day the
649 birth mother has been notified in writing, either on her patient
650 chart or in release paperwork, that she is fit to be released
651 from the licensed hospital or birth center, whichever is
652 earlier. A consent by any man ~~a biological father or legal~~
653 ~~father~~ may be executed at any time after the birth of the child.
654 A consent executed under this paragraph is valid upon execution
655 and may be withdrawn only if the court finds that it was
656 obtained by fraud or duress.

657 (c) When the minor to be adopted is older than 6 months of
658 age at the time of the execution of the consent, the consent to
659 adoption is valid upon execution; however, it is subject to a 3-
660 day revocation period ~~or may be revoked at any time prior to the~~
661 ~~placement of the minor with the prospective adoptive parents,~~

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662 ~~whichever is later~~. If a consent has been executed, this
 663 subsection may not be construed to provide a birth parent with
 664 more than 3 days to revoke the consent once the child has been
 665 placed with the prospective adoptive parents.

666 (e) A consent to adoption being executed by the birth
 667 parent must be in at least 12-point boldfaced type in
 668 substantially the following form:

669 CONSENT TO ADOPTION

670
 671 YOU HAVE THE RIGHT TO SELECT AT LEAST ONE PERSON WHO DOES NOT
 672 HAVE AN EMPLOYMENT, PROFESSIONAL, OR PERSONAL RELATIONSHIP WITH
 673 THE ADOPTION ENTITY OR THE PROSPECTIVE ADOPTIVE PARENTS TO BE
 674 PRESENT WHEN THIS AFFIDAVIT IS EXECUTED AND TO SIGN IT AS A
 675 WITNESS. YOU MUST ACKNOWLEDGE ON THIS FORM THAT YOU WERE
 676 NOTIFIED OF THIS RIGHT AND YOU MUST INDICATE THE WITNESS OR
 677 WITNESSES YOU SELECTED, IF ANY.

678 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU MAY DO ANY OF THE
 679 FOLLOWING INSTEAD OF SIGNING THIS CONSENT OR BEFORE SIGNING THIS
 680 CONSENT:

- 681 1. CONSULT WITH AN ATTORNEY;
- 682 2. HOLD, CARE FOR, AND FEED THE CHILD UNLESS OTHERWISE
 683 LEGALLY PROHIBITED;
- 684 3. PLACE THE CHILD IN FOSTER CARE OR WITH ANY FRIEND OR
 685 FAMILY MEMBER YOU CHOOSE WHO IS WILLING TO CARE FOR THE CHILD;
- 686 4. TAKE THE CHILD HOME UNLESS OTHERWISE LEGALLY
 687 PROHIBITED; AND
- 688 5. FIND OUT ABOUT THE COMMUNITY RESOURCES THAT ARE
 689 AVAILABLE TO YOU IF YOU DO NOT GO THROUGH WITH THE ADOPTION.

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690 IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO
 691 YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE
 692 EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP
 693 YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED
 694 FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL
 695 OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE
 696 IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT
 697 FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF
 698 BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN
 699 WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT
 700 SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH
 701 CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY
 702 BE EXECUTED. ANY MAN ~~A BIOLOGICAL FATHER~~ MAY EXECUTE A CONSENT
 703 AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED
 704 THE CONSENT, IT IS VALID, BINDING, AND IRREVOCABLE AND CANNOT BE
 705 WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR
 706 DURESS.

707 IF YOU BELIEVE THAT YOUR CONSENT WAS OBTAINED BY FRAUD OR DURESS
 708 AND YOU WISH TO REVOKE THAT CONSENT, YOU MUST:

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

711 2. PROVE IN COURT THAT THE CONSENT WAS OBTAINED BY FRAUD
 712 OR DURESS.

713
 714 This statement of rights is not required for the adoption of a
 715 relative, an adult, a stepchild, or a child older than 6 months
 716 of age. A consent form for the adoption of a child older than 6
 717 months of age at the time of execution of consent must contain a

718 | statement outlining the revocation rights provided in paragraph
719 | (c).

720 | (5) A copy or duplicate original of each consent signed
721 | under this chapter in an action for termination of parental
722 | ~~rights pending adoption~~ must be provided to the person who
723 | executed the consent to adoption. The copy must be hand
724 | delivered, with a written acknowledgment of receipt signed by
725 | the person whose consent is required at the time of execution.
726 | If a copy of a consent cannot be provided as required in this
727 | subsection, the adoption entity must execute an affidavit
728 | stating why the copy of the consent was not delivered. The
729 | original consent and acknowledgment of receipt, or an affidavit
730 | stating why the copy of the consent was not delivered, must be
731 | filed with the petition for termination of parental rights
732 | pending adoption.

733 | (6) (a) If a ~~birth~~ parent executes a consent for placement
734 | of a minor with an adoption entity or qualified prospective
735 | adoptive parents and the minor child is in the custody of the
736 | department, but parental rights have not yet been terminated,
737 | the adoption consent shall be valid, binding, and enforceable by
738 | the court.

739 | (b) Upon execution of the consent of the ~~birth~~ parent, the
740 | adoption entity shall be permitted to intervene in the
741 | dependency case as a party in interest and shall provide the
742 | court having jurisdiction over the minor pursuant to the shelter
743 | or dependency petition filed by the department with a copy of
744 | the preliminary home study of the prospective adoptive parents
745 | and any other evidence of the suitability of the placement. The

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746 preliminary home study shall be maintained with strictest
747 confidentiality within the dependency court file and the
748 department's file. A preliminary home study must be provided to
749 the court in all cases in which an adoption entity has
750 intervened under ~~pursuant to~~ this section.

751 (c) Upon a determination by the court that the prospective
752 adoptive parents have met the requirements of this chapter are
753 ~~properly qualified~~ to adopt the minor child and that the
754 adoption appears to be in the best interest of the minor child,
755 the court shall immediately order the transfer of custody of the
756 minor child to the prospective adoptive parents, under the
757 supervision of the adoption entity. Thereafter, the adoption
758 entity must file a petition for termination of parental rights
759 or a petition for adoption in the court having jurisdiction over
760 child welfare or custody in the county with the appropriate
761 venue according to s. 63.087 or s. 63.102. The court having
762 jurisdiction over the minor in the dependency proceeding must
763 relinquish its jurisdiction to the court where the petition for
764 termination of parental rights or the petition for adoption is
765 filed. The adoption entity shall thereafter provide monthly
766 supervision reports to the court, if required, ~~department~~ until
767 finalization of the adoption.

768 (d) In determining whether the best interest of the child
769 will be served by transferring the custody of the minor child to
770 the prospective adoptive parent selected by the ~~birth~~ parent,
771 the court shall give consideration to the rights of the ~~birth~~
772 parent to determine an appropriate placement for the child, the
773 permanency offered, the child's bonding with any potential

774 adoptive home that the child has been residing in, and the
775 importance of maintaining sibling relationships, if possible.

776 (7) (a) A consent that is being withdrawn under paragraph
777 (4) (c) may be withdrawn ~~at any time prior to the minor's~~
778 ~~placement with the prospective adoptive parents or~~ by notifying
779 the adoption entity in writing by certified United States mail,
780 return receipt requested, not later than 3 business days after
781 execution of the consent. As used in this subsection, the term
782 "business day" means any day on which the United States Postal
783 Service accepts certified mail for delivery.

784 (b) Upon receiving timely written notice from a person
785 whose consent to adoption is required of that person's desire to
786 withdraw consent to adoption, the adoption entity must contact
787 the prospective adoptive parent to arrange a time certain for
788 the adoption entity to regain physical custody of the minor,
789 unless, upon a motion for emergency hearing by the adoption
790 entity, the court determines in written findings that placement
791 of the minor with the person who had legal or physical custody
792 of the child immediately before placing the child for adoption
793 ~~withdrawing consent~~ may endanger the minor, or that the person
794 who desires to withdraw consent to the adoption would not be
795 required to consent to the adoption, ~~or~~ has been determined to
796 have abandoned the child, or may otherwise be subject to the
797 consent being waived under this chapter.

798 (c) If the court finds that the ~~such~~ placement may
799 endanger the minor, the court must enter an order regarding
800 continued placement of the minor. The order shall direct
801 continued placement with the prospective adoptive parents

802 pending further proceedings if they desire continued placement.
 803 If the prospective adoptive parents do not desire continued
 804 placement, the order shall include, but not be limited to,
 805 whether temporary placement in foster care, with the person who
 806 had legal or physical custody of the child immediately before
 807 placing the child for adoption, or with a relative is in the
 808 best interest of the child and ~~is appropriate,~~ whether an
 809 investigation by the department is recommended, ~~and whether a~~
 810 ~~relative is available for the temporary placement.~~

811 (d) If the person withdrawing a required consent claims to
 812 be the father of the minor but has not been established to be
 813 the father by marriage, court order, or scientific testing, the
 814 court may order scientific paternity testing upon a showing that
 815 the testing is in compliance with state law ~~and reserve ruling~~
 816 ~~on removal of the minor until the results of such testing have~~
 817 ~~been filed with the court.~~

818 (f) Following the revocation period for withdrawal of
 819 consent described in paragraph (a), ~~or the placement of the~~
 820 ~~child with the prospective adoptive parents, whichever occurs~~
 821 ~~later,~~ a consent may be withdrawn only when the court finds that
 822 the consent was obtained by fraud or duress.

823 Section 11. Subsection (1) of section 63.085, Florida
 824 Statutes, is amended to read:

825 63.085 Disclosure by adoption entity.--

826 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
 827 ADOPTIVE PARENTS.--Not later than 14 days after a person seeking
 828 to adopt a minor or a person seeking to place a minor for
 829 adoption contacts an adoption entity in person or provides the

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830 adoption entity with a mailing address, the entity must provide
831 a written disclosure statement to that person if the entity
832 agrees or continues to work with the ~~such~~ person. If an adoption
833 entity is assisting in the effort to terminate the parental
834 rights of a parent who did not initiate ~~the~~ contact with the
835 adoption entity, the written disclosure must be provided within
836 14 days after that parent is identified and located. For
837 purposes of providing the written disclosure, a person is
838 considered to be seeking to place a minor for adoption when that
839 person has sought information or advice from the adoption entity
840 regarding the option of adoptive placement. The written
841 disclosure statement must be in substantially the following
842 form:

ADOPTION DISCLOSURE

843
844
845 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL
846 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR
847 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
848 ADOPTION UNDER FLORIDA LAW:

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

851 Name:

852 Address:

853 Telephone Number:

854 2. The adoption entity does not provide legal
855 representation or advice to birth parents, and birth parents
856 have the right to consult with an attorney of their own choosing
857 to advise them.

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

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

869 5. A consent for adoption signed before the child attains
870 the age of 6 months is binding and irrevocable from the moment
871 it is signed unless it can be proven in court that the consent
872 was obtained by fraud or duress. A consent for adoption signed
873 after the child attains the age of 6 months is valid from the
874 moment it is signed; however, it may be revoked ~~until the child~~
875 ~~is placed in an adoptive home, or~~ up to 3 business days after it
876 was signed, ~~whichever period is longer.~~

877 6. A consent for adoption is not valid if the signature of
878 the person who signed the consent was obtained by fraud or
879 duress.

880 7. There are alternatives to adoption, including foster
881 care, relative care, and parenting the child. There may be
882 services and sources of financial assistance in the community
883 available to birth parents if they choose to parent the child.

884 8. A birth parent has the right to have a witness of his
885 or her choice, who is unconnected with the adoption entity or

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886 the adoptive parents, to be present and witness the signing of
887 the consent or affidavit of nonpaternity.

888 9. A birth parent 14 years of age or younger must have a
889 parent, legal guardian, or court-appointed guardian ad litem to
890 assist and advise the birth parent as to the adoption plan.

891 10. A birth parent has a right to receive supportive
892 counseling from a counselor, social worker, physician, clergy,
893 or attorney, and such counseling would be beneficial to the
894 birth parent.

895 11. The payment of living or medical expenses by the
896 prospective adoptive parents prior to the birth of the child
897 does not, in any way, obligate the birth parent to sign the
898 consent for adoption.

899 Section 12. Section 63.087, Florida Statutes, is amended
900 to read:

901 63.087 Proceeding to terminate parental rights pending
902 adoption; general provisions.--

903 (1) JURISDICTION.--A court of this state which is
904 competent to decide child welfare or custody matters has
905 jurisdiction to hear all matters arising from a proceeding to
906 terminate parental rights pending adoption.

907 (2) VENUE.--

908 (a) A petition to terminate parental rights pending
909 adoption must be filed:

910 1. In the county where the child resides;

911 ~~2. If the child does not reside in the State of Florida,~~
912 ~~in the county where the adoption entity is located;~~

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913 ~~2.3-~~ In the county where the adoption entity is located;
914 or

915 ~~3.4-~~ If neither parent resides in the state, in the county
916 where the adoption entity is located. The fact of the minor's
917 presence within the state confers jurisdiction on the court in
918 proceedings in the minor's case under this chapter, or to a
919 parent or guardian if due notice has been given.

920 (b) If a petition for termination of parental rights has
921 been filed and a parent whose consent is required ~~rights are to~~
922 ~~be terminated~~ objects to venue, there must be a hearing in which
923 the court shall determine whether that parent intends to assert
924 legally recognized grounds to contest a termination of parental
925 rights and, if so, the court may ~~shall immediately~~ transfer
926 venue to a proper venue under this subsection ~~the county where~~
927 ~~that parent resides or resided at the time of the execution of~~
928 ~~the consent~~. For purposes of selecting venue, the court shall
929 consider the ease of access to the court for the parent and the
930 factors set forth in s. 47.122 ~~who intends to contest a~~
931 ~~termination of parental rights~~.

932 (c) If there is a transfer of venue, the court may
933 determine which party shall bear the cost of venue transfer.

934
935 For purposes of the hearing under this subsection, witnesses
936 located in another jurisdiction may testify by deposition or
937 testify by telephone, audiovisual means, or other electronic
938 means before a designated court or at another location.
939 Documentary evidence transmitted from another location by
940 technological means that do not produce an original writing may

941 not be excluded from evidence on an objection based on the means
 942 of transmission. The court on its own motion may otherwise
 943 prescribe the manner in which and the terms upon which the
 944 testimony is taken.

945 (3) PREREQUISITE FOR ADOPTION.--A petition for adoption
 946 may not be filed until after the date the court enters the
 947 judgment terminating parental rights pending adoption ~~under this~~
 948 ~~chapter or under chapter 39~~. Adoptions of relatives, adult
 949 adoptions, or adoptions of stepchildren shall not be required to
 950 file a separate termination of parental rights proceeding
 951 pending adoption. In such cases, the petitioner may file a joint
 952 petition for termination of parental rights and adoption
 953 attaching all required consents, affidavits, notices, and
 954 acknowledgments ~~shall be attached to the petition for adoption~~
 955 ~~or filed separately in the adoption proceeding~~. All provisions
 956 of this chapter apply to these joint petitions unless otherwise
 957 provided by law.

958 (4) PETITION.--

959 (a) A proceeding seeking to terminate parental rights
 960 pending adoption under ~~pursuant to~~ this chapter must be
 961 initiated by the filing of an original petition after the birth
 962 of the minor.

963 (b) The petition may be filed by a parent or person having
 964 physical or legal custody of the minor. The petition may be
 965 filed by an adoption entity only if a parent or person having
 966 physical or legal custody who has executed a consent to adoption
 967 under ~~pursuant to~~ s. 63.082 also consents in writing to the

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968 adoption entity filing the petition. The original of the ~~such~~
969 consent must be filed with the petition.

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

973 (d) The petition to terminate parental rights pending
974 adoption must be in writing and signed by the petitioner under
975 oath stating the petitioner's good faith in filing the petition.
976 A written consent to adoption, affidavit of nonpaternity, or
977 affidavit of diligent search under s. 63.088, for each person
978 whose consent to adoption is required under s. 63.062, must be
979 executed and attached.

980 (e) The petition must include:

981 1. The minor's name, gender, date of birth, and place of
982 birth. The petition must contain all names by which the minor is
983 or has been known, excluding the minor's prospective adoptive
984 name but including the minor's legal name at the time of the
985 filing of the petition. In the case of an infant child whose
986 adoptive name appears on the original birth certificate, the
987 adoptive name shall not be included in the petition, nor shall
988 it be included elsewhere in the termination of parental rights
989 proceeding unless the proceedings are filed according to s.
990 63.102(6).

991 2. All information required by the Uniform Child Custody
992 Jurisdiction and Enforcement Act and the Indian Child Welfare
993 Act, except the names and addresses of the adoptive parents,
994 which shall be kept confidential as required by s. 63.162.

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995 | 3. A statement of the grounds under s. 63.089 upon which
996 | the petition is based.

997 | 4. The name, address, and telephone number of any adoption
998 | entity seeking to place the minor for adoption.

999 | 5. The name, address, and telephone number of the division
1000 | of the circuit court in which the petition is to be filed.

1001 | 6. A certification of compliance with the requirements of
1002 | s. 63.0425 regarding notice to grandparents of an impending
1003 | adoption.

1004 | (5) SUMMONS TO BE ISSUED.--The petitioner shall cause a
1005 | summons to be issued substantially in the form provided in Form
1006 | 1.902, Florida Rules of Civil Procedure. The Petition and
1007 | summons and a copy of the petition shall be served upon any
1008 | person who executed a ~~whose~~ consent to adoption or affidavit of
1009 | nonpaternity has been provided but who has not waived service of
1010 | the pleadings and notice of the hearing thereon and also upon
1011 | any person whose consent to adoption is required under s.
1012 | 63.062, but who has not provided that consent or an affidavit of
1013 | nonpaternity.

1014 | (6) ANSWER AND APPEARANCE REQUIRED.--An answer to the
1015 | petition or any pleading requiring an answer shall be timely
1016 | filed in accordance with the Florida Rules of Civil Procedure.
1017 | Failure to file a written response or to appear at the hearing
1018 | on the petition constitutes grounds upon which the court may
1019 | terminate parental rights. Failure to appear at the hearing
1020 | constitutes grounds upon which the court may terminate parental
1021 | rights. ~~The petitioner shall provide notice of the final hearing~~
1022 | ~~by United States mail to any person who has been served with the~~

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1023 ~~summons and petition for termination of parental rights within~~
1024 ~~the specified time periods. Notwithstanding the filing of any~~
1025 ~~answer or any pleading,~~ Any person present at the hearing to
1026 terminate parental rights pending adoption whose consent to
1027 adoption is required under s. 63.062 must:

1028 (a) Be advised by the court that he or she has a right to
1029 ask that the hearing be reset for a later date so that the
1030 person may consult with an attorney; and

1031 (b) Be given an opportunity to admit or deny the
1032 allegations in the petition.

1033 Section 13. Subsections (2), (3), (5), and (6) of section
1034 63.088, Florida Statutes, are amended to read:

1035 63.088 Proceeding to terminate parental rights pending
1036 adoption; notice and service; diligent search.--

1037 (2) IDENTITY KNOWN AND LOCATION UNKNOWN; PROCEDURES TO
1038 INITIATE IDENTIFICATION OF LOCATION PROCEDURES.--When the
1039 location of a person whose consent to an adoption is required
1040 but is unknown ~~not known~~, the adoption entity must begin the
1041 inquiry and diligent search process required by this section
1042 within a reasonable time period after the date on which the
1043 person seeking to place a minor for adoption has evidenced in
1044 writing to the adoption entity a desire to place the minor for
1045 adoption with that entity, or not later than 30 days after the
1046 date any money is provided as permitted under this chapter by
1047 the adoption entity for the benefit of the person seeking to
1048 place a minor for adoption.

1049 (3) LOCATION AND IDENTITY KNOWN.--Before the court may
1050 determine that a minor is available for adoption, and in

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1051 addition to the other requirements set forth in this chapter,
 1052 each person whose consent is required under s. 63.062, who has
 1053 not executed a consent or an affidavit of nonpaternity, and
 1054 whose location and identity have been determined by compliance
 1055 with the procedures in this section must be personally served,
 1056 pursuant to chapter 48, at least 20 days before the hearing with
 1057 a summons and a copy of the petition to terminate parental
 1058 rights pending adoption as provided under s. 63.087(5) and with
 1059 notice in substantially the following form:

1060
 1061 NOTICE OF PETITION AND HEARING
 1062 TO TERMINATE PARENTAL RIGHTS
 1063 PENDING ADOPTION
 1064

1065 A petition to terminate parental rights pending adoption
 1066 has been filed. A copy of the petition is being served
 1067 with this notice. There will be a hearing on the petition
 1068 to terminate parental rights pending adoption on (date) at
 1069 (time) before (judge) at (location, including complete
 1070 name and street address of the courthouse). The court has
 1071 set aside (amount of time) for this hearing.
 1072

1073 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE TO TIMELY
 1074 FILE A WRITTEN RESPONSE TO THE PETITION AND THIS NOTICE
 1075 WITH THE COURT AND ~~OR~~ TO APPEAR AT THIS HEARING
 1076 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL END ANY
 1077 PARENTAL RIGHTS YOU MAY HAVE OR ASSERT REGARDING THE MINOR
 1078 CHILD.

1079

1080 (5) LOCATION UNKNOWN; IDENTITY KNOWN.--If the inquiry by

1081 the court under subsection (4) identifies any person whose

1082 consent to adoption is required under s. 63.062 and who has not

1083 executed a consent to adoption or an affidavit of nonpaternity,

1084 and the location of the person from whom consent is required is

1085 unknown, the adoption entity must conduct a diligent search for

1086 that person which must include inquiries concerning:

1087 (a) The person's current address, or any previous address,

1088 through an inquiry of the United States Postal Service through

1089 the Freedom of Information Act;

1090 (b) The last known employment of the person, including the

1091 name and address of the person's employer;

1092 (c) Regulatory agencies, ~~including those~~ regulating

1093 professional licensing in the area where the person last

1094 resided;

1095 (d) Names and addresses of relatives to the extent such

1096 can be reasonably obtained from the petitioner or other sources,

1097 contacts with those relatives, and inquiry as to the person's

1098 last known address. The petitioner shall pursue any leads of any

1099 addresses to which the person may have moved;

1100 (e) Information as to whether or not the person may have

1101 died and, if so, the date and location;

1102 (f) Telephone listings in the area where the person last

1103 resided;

1104 (g) Inquiries of law enforcement agencies in the area

1105 where the person last resided;

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1106 (h) Highway patrol records in the state where the person
1107 last resided;

1108 (i) Department of Corrections records in the state where
1109 the person last resided;

1110 (j) Hospitals in the area where the person last resided;

1111 (k) Records of utility companies, including water, sewer,
1112 cable television, and electric companies, in the area where the
1113 person last resided;

1114 (l) Records of the Armed Forces of the United States as to
1115 whether there is any information as to the person;

1116 (m) Records of the tax assessor and tax collector in the
1117 area where the person last resided; and

1118 (n) Search of one Internet databank locator service.
1119

1120 Any person contacted by a petitioner or adoption entity when
1121 requesting information under this subsection must release the
1122 requested information to the petitioner or adoption entity,
1123 except when prohibited by law, without the necessity of a
1124 subpoena or a court order. An affidavit of diligent search
1125 ~~executed by the petitioner and the adoption entity~~ must be filed
1126 with the court ~~confirming completion of each aspect of the~~
1127 ~~diligent search enumerated in this subsection and specifying the~~
1128 ~~results.~~ The diligent search required under this subsection may
1129 be conducted before the birth of the minor.

1130 (6) CONSTRUCTIVE SERVICE.--This subsection only applies
1131 if, as to any person whose consent is required under s. 63.062
1132 and who has not executed a consent to adoption or an affidavit
1133 of nonpaternity, the location of the person is unknown and the

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1134 inquiry under subsection (4) fails to locate the person. The
 1135 unlocated person must be served notice under subsection (3) by
 1136 constructive service in the manner provided in chapter 49. The
 1137 notice shall be published in the county where the person was
 1138 last known to have resided. The notice, in addition to all
 1139 information required under chapter 49, must include a physical
 1140 description, including, but not limited to, age, race, hair and
 1141 eye color, and approximate height and weight of the person, the
 1142 minor's date of birth, and the place of birth of the minor.
 1143 Constructive service by publication shall not be required to
 1144 provide notice to a ~~an identified~~ birth father whose consent is
 1145 not required under ~~pursuant to~~ ss. 63.062 and 63.064.

1146 Section 14. Section 63.089, Florida Statutes, is amended
 1147 to read:

1148 63.089 Proceeding to terminate parental rights pending
 1149 adoption; hearing; grounds; dismissal of petition; judgment.--

1150 (1) HEARING.--The court may terminate parental rights
 1151 pending adoption only after a hearing.

1152 (2) HEARING PREREQUISITES.--The court may hold the hearing
 1153 only when:

1154 (a) For each person whose consent to adoption is required
 1155 under s. 63.062:

1156 1. A consent under s. 63.082 has been executed and filed
 1157 with the court;

1158 2. An affidavit of nonpaternity under s. 63.082 has been
 1159 executed and filed with the court;

1160 3. Notice has been provided under ss. 63.087 and 63.088;
 1161 or

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1162 4. The certificate from the Office of Vital Statistics has
 1163 been provided to the court stating that a diligent search has
 1164 been made of the Florida Putative Father Registry created in s.
 1165 63.054 and that no filing has been found pertaining to the
 1166 father of the child in question or, if a filing is found,
 1167 stating the name of the putative father and the time and date of
 1168 the filing.

1169 (b) For each notice and petition that must be served under
 1170 ss. 63.087 and 63.088:

1171 1. At least 20 days have elapsed since the date of
 1172 personal service of process and an affidavit of service has been
 1173 filed with the court;

1174 2. At least 30 days have elapsed since the first date of
 1175 publication of constructive service and an affidavit of service
 1176 has been filed with the court; or

1177 3. An affidavit of nonpaternity, consent for adoption, or
 1178 other document that ~~which~~ affirmatively waives service has been
 1179 executed and filed with the court;

1180 (c) The minor named in the petition has been born; and

1181 (d) The petition contains all information required under
 1182 s. 63.087 and all affidavits of inquiry, diligent search, and
 1183 service required under s. 63.088 have been obtained and filed
 1184 with the court.

1185 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
 1186 ADOPTION.--The court may enter a judgment terminating parental
 1187 rights pending adoption if the court determines by clear and
 1188 convincing evidence, supported by written findings of fact, that

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1189 | each person whose consent to adoption is required under s.
1190 | 63.062:

1191 | (a) Has executed a valid consent under s. 63.082 and the
1192 | consent was obtained according to the requirements of this
1193 | chapter;

1194 | (b) Has executed an affidavit of nonpaternity and the
1195 | affidavit was obtained according to the requirements of this
1196 | chapter;

1197 | (c) Has been served with a notice of the intended adoption
1198 | plan in accordance with the provisions of s. 63.062(3) and has
1199 | failed to respond within the designated time period;

1200 | (d) Has been properly served notice of the proceeding in
1201 | accordance with the requirements of this chapter and has failed
1202 | to file a written answer and ~~or~~ appear at the evidentiary
1203 | hearing resulting in the judgment terminating parental rights
1204 | pending adoption;

1205 | (e) Has been properly served notice of the proceeding in
1206 | accordance with the requirements of this chapter and has been
1207 | determined under subsection (4) to have abandoned the minor as
1208 | defined in s. 63.032;

1209 | (f) Is a parent of the person to be adopted, which parent
1210 | has been judicially declared incapacitated with restoration of
1211 | competency found to be medically improbable;

1212 | (g) Is a person who has legal custody of the person to be
1213 | adopted, other than a parent, who has failed to respond in
1214 | writing to a request for consent for a period of 60 days or,
1215 | after examination of his or her written reasons for withholding

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1216 consent, is found by the court to be withholding his or her
1217 consent unreasonably;

1218 (h) Has been properly served notice of the proceeding in
1219 accordance with the requirements of this chapter, but has been
1220 found by the court, after examining written reasons for the
1221 withholding of consent, to be unreasonably withholding his or
1222 her consent; or

1223 (i) Is the spouse of the person to be adopted who has
1224 failed to consent, and the failure of the spouse to consent to
1225 the adoption is excused by reason of prolonged and unexplained
1226 absence, unavailability, incapacity, or circumstances that are
1227 found by the court to constitute unreasonable withholding of
1228 consent.

1229 (4) FINDING OF ABANDONMENT.--A finding of abandonment
1230 resulting in a termination of parental rights must be based upon
1231 clear and convincing evidence that a parent or person having
1232 legal custody has abandoned the child in accordance with the
1233 definition contained in s. 63.032(1). A finding of abandonment
1234 may be based upon emotional abuse or a refusal to provide
1235 reasonable financial support, when able, to a birth mother
1236 during her pregnancy. If, in the opinion of the court, the
1237 efforts of a parent or person having legal custody of the child
1238 to support and communicate with the child are only marginal
1239 efforts that do not evince a settled purpose to assume all
1240 parental duties, the court may declare the child to be
1241 abandoned. In making this decision, the court may consider the
1242 conduct of a father toward the child's mother during her
1243 pregnancy.

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1244 (a) In making a determination of abandonment at a hearing
 1245 for termination of parental rights under ~~pursuant to~~ this
 1246 chapter, the court must consider, among other relevant factors
 1247 not inconsistent with this section:

1248 1. Whether the actions alleged to constitute abandonment
 1249 demonstrate a willful disregard for the safety or welfare of the
 1250 child or unborn child;

1251 2. Whether the person alleged to have abandoned the child,
 1252 while being able, failed to provide financial support;

1253 3. Whether the person alleged to have abandoned the child,
 1254 while being able, failed to pay for medical treatment; and

1255 4. Whether the amount of support provided or medical
 1256 expenses paid was appropriate, taking into consideration the
 1257 needs of the child and relative means and resources available to
 1258 the person alleged to have abandoned the child.

1259 (b) The child has been abandoned when the parent of a
 1260 child is incarcerated on or after October 1, 2001, in a state or
 1261 federal correctional institution and:

1262 1. The period of time for which the parent has been or is
 1263 expected to be incarcerated will constitute a significant
 1264 ~~substantial~~ portion of the child's minority ~~period of time~~
 1265 ~~before the child will attain the age of 18 years;~~

1266 2. The incarcerated parent has been determined by the
 1267 court to be a violent career criminal as defined in s. 775.084,
 1268 a habitual violent felony offender as defined in s. 775.084,
 1269 convicted of child abuse as defined in s. 827.03, or a sexual
 1270 predator as defined in s. 775.21; has been convicted of first
 1271 degree or second degree murder in violation of s. 782.04 or a

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1272 sexual battery that constitutes a capital, life, or first degree
 1273 felony violation of s. 794.011; or has been convicted of an
 1274 offense in another jurisdiction which is substantially similar
 1275 to one of the offenses listed in this subparagraph. As used in
 1276 this section, the term "substantially similar offense" means any
 1277 offense that is substantially similar in elements and penalties
 1278 to one of those listed in this subparagraph, and that is in
 1279 violation of a law of any other jurisdiction, whether that of
 1280 another state, the District of Columbia, the United States or
 1281 any possession or territory thereof, or any foreign
 1282 jurisdiction; or

1283 3. The court determines by clear and convincing evidence
 1284 that continuing the parental relationship with the incarcerated
 1285 parent would be harmful to the child and, for this reason, that
 1286 termination of the parental rights of the incarcerated parent is
 1287 in the best interest of the child.

1288 (5) DISMISSAL OF PETITION.--If the court does not find by
 1289 clear and convincing evidence that parental rights of a parent
 1290 should be terminated pending adoption, the court must dismiss
 1291 the petition and that parent's parental rights that were the
 1292 subject of such petition shall remain in full force under the
 1293 law. The order must include written findings in support of the
 1294 dismissal, including findings as to the criteria in subsection
 1295 (4) if rejecting a claim of abandonment. Parental rights may not
 1296 be terminated based upon a consent that the court finds has been
 1297 timely withdrawn under s. 63.082 or a consent to adoption or
 1298 affidavit of nonpaternity that the court finds was obtained by
 1299 fraud or duress. The court must enter an order based upon

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1300 written findings providing for the placement of the minor. The
 1301 court may order scientific testing to determine the paternity of
 1302 the minor at any time during which the court has jurisdiction
 1303 over the minor, upon a showing that the testing is in compliance
 1304 with state law. Further proceedings, if any, regarding the minor
 1305 must be brought in a separate custody action under chapter 61, a
 1306 dependency action under chapter 39, or a paternity action under
 1307 chapter 742.

1308 (6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
 1309 ADOPTION.--

1310 (a) The judgment terminating parental rights pending
 1311 adoption must be in writing and contain findings of fact as to
 1312 the grounds for terminating parental rights pending adoption.

1313 (b) Within 7 days after filing, the court shall mail a
 1314 copy of the judgment to the department. The clerk shall execute
 1315 a certificate of the ~~such~~ mailing.

1316 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.--

1317 (a) A motion for relief from a judgment terminating
 1318 parental rights must be filed with the court originally entering
 1319 the judgment. The motion must be filed within a reasonable time,
 1320 but not later than 1 year after the entry of the judgment
 1321 terminating parental rights.

1322 (b) No later than 30 days after the filing of a motion
 1323 under this subsection, the court must conduct a preliminary
 1324 hearing to determine what contact, if any, shall be permitted
 1325 between a parent and the child pending resolution of the motion.
 1326 The ~~Such~~ contact shall be considered only if it is requested by
 1327 a parent who has appeared at the hearing. If the court orders

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1328 | contact between a parent and child, the order must be issued in
 1329 | writing as expeditiously as possible and must state with
 1330 | specificity the terms ~~any provisions~~ regarding contact with
 1331 | persons other than those with whom the child resides.

1332 | (c) At the preliminary hearing, the court, upon the motion
 1333 | of any party or upon its own motion, may order scientific
 1334 | testing to determine the paternity of the minor if the person
 1335 | seeking to set aside the judgment is a person whose consent is
 1336 | required alleging to be the child's father and that fact has not
 1337 | previously been determined by legitimacy or scientific testing,
 1338 | and if the testing is in compliance with state law. The court
 1339 | may order visitation with a person for whom scientific testing
 1340 | for paternity has been ordered and who has previously
 1341 | established a bonded relationship with the child.

1342 | (d) Unless otherwise agreed between the parties or for
 1343 | good cause shown, the court shall conduct a final hearing on the
 1344 | motion for relief from judgment within 45 days after the filing
 1345 | and enter its written order as expeditiously as possible
 1346 | thereafter.

1347 | (8) RECORDS; CONFIDENTIAL INFORMATION.--All papers and
 1348 | records pertaining to a petition to terminate parental rights
 1349 | pending adoption are related to the subsequent adoption of the
 1350 | minor and are subject to ~~the provisions of~~ s. 63.162. The
 1351 | confidentiality provisions of this chapter do not apply to the
 1352 | extent information regarding persons or proceedings must be made
 1353 | available as specified under s. 63.088.

1354 | Section 15. Section 63.092, Florida Statutes, is amended
 1355 | to read:

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1356 63.092 Report to the court of intended placement by an
 1357 adoption entity; at-risk placement; preliminary study.--
 1358 (1) REPORT TO THE COURT.--The adoption entity must report
 1359 any intended placement of a minor for adoption with any person
 1360 who is not a relative or a stepparent if the adoption entity ~~has~~
 1361 ~~knowledge of, or participates in the, such~~ intended placement.
 1362 The report must be made to the court before the minor is placed
 1363 in the home or within 2 business days ~~48 hours~~ thereafter.
 1364 Failure to file the report of intended placement within 2
 1365 business days does not constitute grounds to deny the petition
 1366 for termination of parental rights or adoption if the report is
 1367 subsequently filed and no party is prejudiced by the failure to
 1368 file the report in a timely manner.
 1369 (2) AT-RISK PLACEMENT.--If the minor is placed in the
 1370 prospective adoptive home before the parental rights of the
 1371 minor's parents are terminated under s. 63.089, the placement is
 1372 an at-risk placement. If the placement is an at-risk placement,
 1373 the prospective adoptive parents must acknowledge in writing
 1374 before the minor may be placed in the prospective adoptive home
 1375 that the placement is at risk. The prospective adoptive parents
 1376 shall be advised by the adoption entity, in writing, that the
 1377 minor is subject to removal from the prospective adoptive home
 1378 by the adoption entity or by court order at any time before
 1379 ~~prior to~~ the finalization of the adoption.
 1380 (3) PRELIMINARY HOME STUDY.--Before placing the minor in
 1381 the intended adoptive home, a preliminary home study must be
 1382 performed by a licensed child-placing agency, ~~a child-caring~~
 1383 ~~agency registered under s. 409.176,~~ a licensed psychologist,

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1384 clinical social worker, marriage and family therapist, or mental
1385 health counselor qualified and licensed to perform a home study
1386 in the state or country where the adoptive parent resides
1387 ~~professional, or agency described in s. 61.20(2)~~, unless the
1388 adoptee is an adult or the petitioner is a stepparent or a
1389 relative. If the adoptee is an adult or the petitioner is a
1390 stepparent or a relative, a preliminary home study may be
1391 required by the court for good cause shown. The department is
1392 required to perform the preliminary home study only if there is
1393 no licensed child-placing agency, ~~child caring agency registered~~
1394 ~~under s. 409.176~~, licensed professional, or agency described in
1395 s. 61.20(2), in the county where the prospective adoptive
1396 parents reside. The preliminary home study must be made to
1397 determine the suitability of the intended adoptive parents and
1398 may be completed before ~~prior to~~ identification of a prospective
1399 adoptive minor. A favorable preliminary home study is valid for
1400 1 year after the date of its completion. Upon its completion, a
1401 copy of the home study must be provided to the intended adoptive
1402 parents who were the subject of the home study. A minor may not
1403 be placed in an intended adoptive home before a favorable
1404 preliminary home study is completed unless the adoptive home is
1405 also a licensed foster home under s. 409.175. The preliminary
1406 home study must include, at a minimum:

1407 (a) An interview with the intended adoptive parents;
1408 (b) Records checks of the department's central abuse
1409 registry and criminal records correspondence checks under
1410 ~~pursuant to~~ s. 435.045 through the Department of Law Enforcement
1411 on the intended adoptive parents;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1412 (c) An assessment of the physical environment of the home;

1413 (d) A determination of the financial security of the
1414 intended adoptive parents;

1415 (e) Documentation of counseling and education of the
1416 intended adoptive parents on adoptive parenting;

1417 (f) Documentation that information on adoption and the
1418 adoption process has been provided to the intended adoptive
1419 parents;

1420 (g) Documentation that information on support services
1421 available in the community has been provided to the intended
1422 adoptive parents; and

1423 (h) A copy of each prospective adoptive parent's signed
1424 acknowledgment of receipt of disclosure required by s. 63.085.

1425
1426 If the preliminary home study is favorable, a minor may be
1427 placed in the home pending entry of the judgment of adoption. A
1428 minor may not be placed in the home if the preliminary home
1429 study is unfavorable. If the preliminary home study is
1430 unfavorable, the adoption entity may, within 20 days after
1431 receipt of a copy of the written recommendation, petition the
1432 court to determine the suitability of the intended adoptive
1433 home. A determination as to suitability under this subsection
1434 does not act as a presumption of suitability at the final
1435 hearing. In determining the suitability of the intended adoptive
1436 home, the court must consider the totality of the circumstances
1437 in the home. No minor may be placed in a home in which there
1438 resides any person determined by the court to be a sexual

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1439 predator as defined in s. 775.21 or to have been convicted of an
1440 offense listed in s. 63.089(4)(b)2.

1441 Section 16. Subsections (1), (2), (3), and (6) of section
1442 63.102, Florida Statutes, are amended to read:

1443 63.102 Filing of petition for adoption or declaratory
1444 statement; venue; proceeding for approval of fees and costs.--

1445 (1) PETITION FOR ADOPTION.--A petition for adoption may
1446 not be filed until after the entry of the judgment or decree
1447 terminating parental rights ~~pending adoption under this chapter,~~
1448 unless the adoptee is an adult or, the petitioner is a
1449 stepparent or a relative, ~~or the minor has been the subject of a~~
1450 ~~judgment terminating parental rights under chapter 39.~~ After a
1451 judgment terminating parental rights has been entered, a
1452 proceeding for adoption may be commenced by filing a petition
1453 entitled, "In the Matter of the Adoption of _____" in the
1454 circuit court. The person to be adopted shall be designated in
1455 the caption in the name by which he or she is to be known if the
1456 petition is granted. At the request of a party, the ~~Any~~ name by
1457 which the minor was previously known may not be disclosed in the
1458 petition, the notice of hearing according to s. 63.122(3), or
1459 the judgment of adoption, or court docket according to s.
1460 63.162(3).

1461 (2) VENUE.--A petition for adoption or for a declaratory
1462 statement as to the adoption contract may ~~shall~~ be filed in the
1463 county where the petition for termination of parental rights was
1464 granted, in ~~unless the court, in accordance with s. 47.122,~~
1465 ~~changes the venue to~~ the county where the petitioner or
1466 petitioners or the minor resides, or where the adoption entity

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1467 ~~with which the minor has been placed~~ is located. The circuit
 1468 court in this state may ~~must~~ retain jurisdiction over the matter
 1469 until a final judgment is entered on the adoption. The Uniform
 1470 Child Custody Jurisdiction and Enforcement Act does not apply
 1471 until a final judgment is entered on the adoption.

1472 (3) FILING OF ADOPTION PETITION REQUIRED.--Except in cases
 1473 in which the minor child was placed by the department unless
 1474 leave of court is granted for good cause shown, a petition for
 1475 adoption shall be filed not later than 60 days after entry of
 1476 the final judgment terminating parental rights.

1477 (6) STEPCCHILD, RELATIVE, AND ADULT ADOPTIONS.--Petitions
 1478 for the adoption of a stepchild, a relative, or an adult may
 1479 ~~shall~~ not require the filing of a separate judgment or separate
 1480 proceeding terminating parental rights pending adoption. The
 1481 final judgment of adoption has ~~shall have~~ the effect of
 1482 terminating parental rights simultaneously with the granting of
 1483 the decree of adoption.

1484 Section 17. Subsection (2) of section 63.112, Florida
 1485 Statutes, is amended to read:

1486 63.112 Petition for adoption; description; report or
 1487 recommendation, exceptions; mailing.--

1488 (2) The following documents are required to be filed with
 1489 the clerk of the court at the time the petition is filed:

1490 (a) A certified copy of the court judgment terminating
 1491 parental rights ~~under chapter 39 or under this chapter~~ or, if
 1492 the adoptee is an adult or a minor relative or stepchild of the
 1493 petitioner, the required consent, unless the ~~such~~ consent is
 1494 excused by the court.

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1495 (b) The favorable preliminary home study of the
1496 department, licensed child-placing agency, or professional under
1497 ~~pursuant to~~ s. 63.092, as to the suitability of the home in
1498 which the minor has been placed, unless the petitioner is a
1499 stepparent or a relative.

1500 (c) A copy of any declaratory statement previously entered
1501 by the court under ~~pursuant to~~ s. 63.102.

1502 (d) Documentation that an interview was held with the
1503 minor, if older than 12 years of age, unless the court, in the
1504 best interest of the minor, dispenses with the minor's consent
1505 under s. 63.062(1)(c).

1506 Section 18. Subsection (3) of section 63.122, Florida
1507 Statutes, is amended to read:

1508 63.122 Notice of hearing on petition.--

1509 (3) Upon a showing by the petitioner that the privacy,
1510 safety, or ~~and~~ welfare of the petitioner, parent, or minor may
1511 be endangered, the court may order the names, addresses, or
1512 other identifying information of the petitioner, parent, or
1513 minor, or all both, to be deleted from the notice of hearing and
1514 from the copy of the petition attached thereto, provided the
1515 substantive rights of any person will not thereby be affected.

1516 Section 19. Subsections (1) and (4) of section 63.125,
1517 Florida Statutes, are amended to read:

1518 63.125 Final home investigation.--

1519 (1) The final home investigation must be conducted before
1520 the adoption becomes final. The investigation may be conducted
1521 by a licensed child-placing agency or a licensed professional
1522 qualified to conduct home studies in the same manner as provided

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1523 | in s. 63.092 to ascertain whether the adoptive home is a
 1524 | suitable home for the minor and whether the proposed adoption is
 1525 | in the best interest of the minor. Unless directed by the court,
 1526 | an investigation and recommendation are not required if the
 1527 | petitioner is a stepparent or if the minor is related to one of
 1528 | the adoptive parents within the third degree of consanguinity.
 1529 | The department is required to perform the home investigation
 1530 | only if there is no licensed child-placing agency or
 1531 | professional pursuant to s. 63.092 in the county in which the
 1532 | prospective adoptive parent resides.

1533 | (4) The department, the licensed child-placing agency, or
 1534 | the professional making the required investigation may request
 1535 | other state agencies, licensed professionals qualified to
 1536 | conduct a home study, or child-placing agencies within or
 1537 | outside this state to make investigations of designated parts of
 1538 | the inquiry and to make a written report to the department, the
 1539 | professional, or other person or agency.

1540 | Section 20. Subsection (4) of section 63.132, Florida
 1541 | Statutes, is amended to read:

1542 | 63.132 Affidavit of expenses and receipts.--

1543 | (4) This section does not apply to an adoption by a
 1544 | stepparent or an adoption of a relative or adult, does not apply
 1545 | to the finalization of an adoption of a minor whose parental
 1546 | rights were terminated under chapter 39, and does not apply to
 1547 | the recognition of an adoption decree of a minor child adopted
 1548 | in a foreign country.

1549 | Section 21. Subsection (1) of section 63.135, Florida
 1550 | Statutes, is amended to read:

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1551 63.135 Information under oath to be submitted to the
1552 court.--

1553 (1) The adoption entity or petitioner must file an
1554 affidavit under the Uniform Child Custody Jurisdictional and
1555 Enforcement Act in a termination of parental rights ~~Each party~~
1556 ~~in an adoption proceeding,~~ in the first pleading or in an
1557 affidavit attached to that pleading, ~~shall give information~~
1558 ~~under oath as to the child's present address, the places where~~
1559 ~~the child has lived within the last 5 years, and the names and~~
1560 ~~present addresses of the persons with whom the child has lived~~
1561 ~~during that period. In the pleading or affidavit each party~~
1562 ~~shall further declare under oath whether:~~

1563 ~~(a) The party has participated as a party or witness or in~~
1564 ~~any other capacity in any other litigation concerning the~~
1565 ~~custody of the same child in this or any other state;~~

1566 ~~(b) The party has information of any custody proceeding~~
1567 ~~concerning the child pending in a court of this or any other~~
1568 ~~state; and~~

1569 ~~(c) The party knows of any person not a party to the~~
1570 ~~proceedings who has physical custody of the child or claims to~~
1571 ~~have custody or visitation rights with respect to the child.~~

1572 Section 22. Subsections (3) and (4) of section 63.142,
1573 Florida Statutes, are amended to read:

1574 63.142 Hearing; judgment of adoption.--

1575 (3) DISMISSAL.--

1576 (a) If the petition is dismissed, further proceedings, if
1577 any, regarding the minor must be brought in a separate custody
1578 action under chapter 61, a dependency action under chapter 39,

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1579 | or a paternity action under chapter 742 ~~the court shall~~
1580 | ~~determine the person that is to have custody of the minor.~~

1581 | (b) If the petition is dismissed, the court shall state
1582 | with specificity the reasons for the dismissal.

1583 | (4) JUDGMENT.--At the conclusion of the hearing, after the
1584 | court determines that the date for a parent to file an appeal of
1585 | a valid judgment terminating that parent's parental rights has
1586 | passed and no appeal, under ~~pursuant to~~ the Florida Rules of
1587 | Appellate Procedure, is pending and that the adoption is in the
1588 | best interest of the person to be adopted, a judgment of
1589 | adoption shall be entered. A judgment terminating parental
1590 | rights pending adoption is voidable and any later judgment of
1591 | adoption of that minor is voidable if, upon a parent's motion
1592 | for relief from judgment, the court finds that the adoption
1593 | fails to substantially meet the requirements of this chapter.
1594 | The motion must be filed within a reasonable time, but not later
1595 | than 1 year after the date the judgment terminating parental
1596 | rights was entered.

1597 | Section 23. Section 63.152, Florida Statutes, is amended
1598 | to read:

1599 | 63.152 Application for new birth record.--Within 30 days
1600 | after entry of a judgment of adoption, the clerk of the court
1601 | shall transmit a certified statement of the entry to the state
1602 | registrar of vital statistics in the state where the adoptee was
1603 | born on a form provided by the Florida registrar. A new birth
1604 | record containing the necessary information supplied by the
1605 | certificate shall be issued by the registrar on application of
1606 | the adopting parents or the adopted person.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1607 Section 24. Subsections (1), (3), (4), and (7) of section
1608 63.162, Florida Statutes, are amended, and subsection (8) is
1609 added to that section, to read:

1610 63.162 Hearings and records in adoption proceedings;
1611 confidential nature.--

1612 (1) All hearings held in proceedings under this chapter
1613 ~~act~~ shall be held in closed court without admittance of any
1614 person other than essential officers of the court, the parties,
1615 witnesses, counsel, persons who have not consented to the
1616 adoption and are required to consent, and representatives of the
1617 agencies who are present to perform their official duties.

1618 (3) The court files, records, and papers in the adoption
1619 of a minor shall be indexed only in the name of the petitioner,
1620 and the name of the petitioner and the minor ~~may shall~~ not be
1621 noted on any docket, index, or other record outside the court
1622 file, except that closed agency files may be cross-referenced in
1623 the original and adoptive names of the minor.

1624 (4) A person may not disclose from the records the name
1625 and identity of a birth parent, an adoptive parent, or an
1626 adoptee unless:

1627 (a) The birth parent authorizes in writing the release of
1628 his or her name and files the release with the adoption entity,
1629 an adoption reunion registry, the department, or the court;

1630 (b) The adoptee, if 18 or more years of age, authorizes in
1631 writing the release of his or her name; or, if the adoptee is
1632 less than 18 years of age, written consent to disclose the
1633 adoptee's name is obtained from an adoptive parent;

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1634 (c) The adoptive parent authorizes in writing the release
1635 of his or her name; or

1636 (d) Upon order of the court for good cause shown. In
1637 determining whether good cause exists, the court shall give
1638 primary consideration to the best interests of the adoptee, but
1639 must also give due consideration to the interests of the
1640 adoptive and birth parents. Factors to be considered in
1641 determining whether good cause exists include, but are not
1642 limited to:

- 1643 1. The reason the information is sought;
- 1644 2. The existence of means available to obtain the desired
1645 information without disclosing the identity of the birth
1646 parents, such as by having the court, a person appointed by the
1647 court, the department, or the licensed child-placing agency
1648 contact the birth parents and request specific information;
- 1649 3. The desires, to the extent known, of the adoptee, the
1650 adoptive parents, and the birth parents;
- 1651 4. The age, maturity, judgment, and expressed needs of the
1652 adoptee; and
- 1653 5. The recommendation of the department, licensed child-
1654 placing agency, or professional which prepared the preliminary
1655 study and home investigation, or the department if no such study
1656 was prepared, concerning the advisability of disclosure.

1657 (7) The court may, upon petition of an adult adoptee, or
1658 adoptee's parents if adoptee is under the age of 18, for good
1659 cause shown, appoint an intermediary or a licensed child-placing
1660 agency to contact a birth parent to ~~who has not registered with~~
1661 ~~the adoption registry pursuant to s. 63.165 and~~ advise him or

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1662 her ~~them~~ of the adoptee's request to open the file or the
 1663 adoption registry, and offer the birth parent the opportunity to
 1664 waive confidentiality and consent to the opening of his or her
 1665 records availability of same.

1666 (8) As a result of any proceeding under s. 382.015, this
 1667 section, or any other proceeding to unseal an original birth
 1668 certificate, the Department of Health may release an original
 1669 sealed birth certificate only to the department. The department
 1670 must make a written request for the birth certificate from the
 1671 Department of Health within 10 days after the department's
 1672 receipt of an order or other documentation authorizing unsealing
 1673 of the original birth certificate. Upon receipt of the
 1674 department's request, the Department of Health shall release the
 1675 original sealed birth certificate to the department in a manner
 1676 that will ensure confidentiality.

1677 Section 25. Paragraph (c) of subsection (1) of section
 1678 63.172, Florida Statutes, is amended to read:

1679 63.172 Effect of judgment of adoption.--

1680 (1) A judgment of adoption, whether entered by a court of
 1681 this state, another state, or of any other place, has the
 1682 following effect:

1683 (c) ~~Except for rights of inheritance,~~ It creates the
 1684 relationship between the adopted person and the petitioner and
 1685 all relatives of the petitioner that would have existed if the
 1686 adopted person were a blood descendant of the petitioner born
 1687 within wedlock. This relationship shall be created for all
 1688 purposes, including the rights of inheritance and applicability
 1689 of statutes, documents, and instruments, whether executed before

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1690 or after entry of the adoption judgment, that do not expressly
1691 exclude an adopted person from their operation or effect.

1692 Section 26. Section 63.192, Florida Statutes, is amended
1693 to read:

1694 63.192 Recognition of foreign judgment affecting
1695 adoption.--A judgment or decree granting legal guardianship for
1696 purposes of adoption, of court terminating the relationship of
1697 parent and child, or establishing the relationship by adoption
1698 issued under pursuant to due process of law by a court or
1699 authorized body of any other jurisdiction within or without the
1700 United States shall be recognized in this state, and the rights
1701 and obligations of the parties ~~on matters within the~~
1702 ~~jurisdiction of this state~~ shall be determined as though the
1703 judgment were issued by a court of this state. A judgment or
1704 decree of a court or authorized body terminating the
1705 relationship of a parent and child, whether independent,
1706 incorporated in an adoption decree, or incorporated in a legal
1707 guardianship order issued pursuant to due process of law of any
1708 other jurisdiction within or without the United States, shall be
1709 deemed to effectively terminate parental rights for purposes of
1710 proceeding on a petition for adoption in this state. When a
1711 minor child has been made available for adoption in a foreign
1712 state or foreign country and the parental rights of the minor
1713 child's parent have been terminated, or the child has been
1714 declared to be abandoned or orphaned, no additional termination
1715 of parental rights proceeding need occur, and the adoption may
1716 be finalized according to the procedures set forth in this
1717 chapter.

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1718 Section 27. Section 63.207, Florida Statutes, is amended
1719 to read:

1720 63.207 Out-of-state placement.--

1721 (1) Unless the parent placing a minor for adoption files
1722 an affidavit that the parent chooses to place the minor outside
1723 the state, giving the reason for that placement, or the minor is
1724 to be placed with a relative or with a stepparent, or the minor
1725 is a special needs child, as defined in s. 409.166, or for other
1726 good cause shown, an adoption entity may not:

1727 (a) Take or send a minor out of the state for the purpose
1728 of placement for adoption; or

1729 (b) Place or attempt to place a minor for the purpose of
1730 adoption with a family who primarily lives and works outside
1731 Florida in another state. If an adoption entity is acting under
1732 this subsection, the adoption entity must file a petition for
1733 declaratory statement under ~~pursuant to~~ s. 63.102 for ~~prior~~
1734 approval of fees and costs. The court shall review the costs
1735 under ~~pursuant to~~ s. 63.097. The petition for declaratory
1736 statement may ~~must~~ be consolidated with ~~converted to~~ a petition
1737 for an adoption upon placement of the minor in the home. When a
1738 minor is placed for adoption with prospective adoptive parents
1739 who primarily live and work outside this state, the circuit
1740 court in this state may retain jurisdiction over the matter
1741 until the adoption becomes final. The prospective adoptive
1742 parents may finalize the adoption in this state or their home
1743 state.

1744 (2) An adoption entity may not counsel a birth mother to
1745 leave the state for the purpose of giving birth to a child

1746 outside the state in order to secure a fee in excess of that
 1747 permitted under s. 63.097 when it is the intention that the
 1748 child is to be placed for adoption outside the state.

1749 (3) When applicable, the Interstate Compact on the
 1750 Placement of Children authorized in s. 409.401 shall be used in
 1751 placing children outside the state for adoption.

1752 Section 28. Paragraphs (b), (c), (f), and (g) of
 1753 subsection (1) and subsections (2) and (7) of section 63.212,
 1754 Florida Statutes, are amended to read:

1755 63.212 Prohibited acts; penalties for violation.--

1756 (1) It is unlawful for any person:

1757 (b) Except an adoption entity, to place or attempt to
 1758 place within the state a minor for adoption unless the minor is
 1759 placed with a relative or with a stepparent. This prohibition,
 1760 however, does not apply to a person who is placing or attempting
 1761 to place a minor for the purpose of adoption with the adoption
 1762 entity.

1763 (c) To sell or surrender, or to arrange for the sale or
 1764 surrender of, a minor to another person for money or anything of
 1765 value or to receive a ~~such~~ minor child for a ~~such~~ payment or
 1766 thing of value. If a minor is being adopted by a relative or by
 1767 a stepparent, or is being adopted through an adoption entity,
 1768 this paragraph does not prohibit the person who is contemplating
 1769 adopting the child from paying, under ss. 63.097 and 63.132, the
 1770 actual prenatal care and living expenses of the mother of the
 1771 child to be adopted, or from paying, under ss. 63.097 and
 1772 63.132, the actual living and medical expenses of the ~~such~~
 1773 mother under these sections ~~for a reasonable time, not to exceed~~

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1774 ~~6 weeks, if medical needs require such support, after the birth~~
1775 ~~of the minor.~~

1776 (f) Except an adoption agency or intermediary entity, to
1777 charge or accept any fee or compensation of any nature from
1778 anyone for making a referral in connection with an adoption or
1779 for providing adoption services, facilitating, matching, or
1780 placement services.

1781 (g) Except an adoption agency or intermediary entity, to
1782 advertise or offer to the public, in any way, by any medium
1783 whatever that a minor is available for adoption or that a minor
1784 is sought for adoption; and, further, it is unlawful for any
1785 person to publish or broadcast any such advertisement without
1786 including a Florida license number of the agency or attorney
1787 placing the advertisement.

1788 (2)(a) It is unlawful for any person under this chapter
1789 to:

- 1790 1. Knowingly provide false information; or
- 1791 2. Knowingly withhold material information.

1792 (b) It is unlawful for a parent, with the intent to
1793 defraud, to accept benefits related to the same pregnancy from
1794 more than one adoption entity without disclosing that fact to
1795 each entity.

1796 ~~(c) It is unlawful for any person who knows that the~~
1797 ~~parent whose rights are to be terminated intends to object to~~
1798 ~~said termination to intentionally file the petition for~~
1799 ~~termination of parental rights in a county inconsistent with the~~
1800 ~~required venue under such circumstances.~~

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1802 Any person who willfully violates any provision of this
 1803 subsection commits a misdemeanor of the second degree,
 1804 punishable as provided in s. 775.082 or s. 775.083. In addition,
 1805 the such person is liable for damages caused by the such acts or
 1806 omissions, including reasonable attorney's fees and costs.
 1807 Damages may be awarded through restitution in any related
 1808 criminal prosecution or by filing a separate civil action.

1809 (7) It is unlawful for any adoptive parent or adoption
 1810 entity to obtain a preliminary home study or final home
 1811 investigation and fail to disclose the existence of the study or
 1812 investigation to the court when required by law to do so.

1813 Section 29. Subsections (4) and (5) and paragraph (c) of
 1814 subsection (6) of section 63.213, Florida Statutes, are amended
 1815 to read:

1816 63.213 Preplanned adoption agreement.--

1817 (4) An attorney who represents an intended father and
 1818 intended mother or any other attorney with whom that attorney is
 1819 associated shall not represent simultaneously a female who is or
 1820 proposes to be a volunteer mother in the same ~~any matter~~
 1821 ~~relating to a preplanned adoption agreement or preplanned~~
 1822 adoption arrangement.

1823 (5) Payment to agents, finders, and intermediaries,
 1824 including attorneys and physicians, as a finder's fee for
 1825 finding or matching volunteer mothers ~~or matching a volunteer~~
 1826 ~~mother~~ and intended father and intended mother is prohibited and
 1827 subject to the penalties and sanctions under 63.212 and 63.219.

1828 Doctors, psychologists, attorneys, and other professionals may
 1829 receive reasonable compensation for their professional services,

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1830 such as providing medical services and procedures, legal advice
1831 in structuring and negotiating a preplanned adoption agreement,
1832 or counseling.

1833 (6) As used in this section, the term:

1834 (c) "Fertility technique" means ~~artificial embryonation,~~
1835 artificial insemination, whether in vivo or in vitro, ~~egg~~
1836 ~~donation, or embryo adoption.~~

1837 Section 30. Section 63.219, Florida Statutes, is amended
1838 to read:

1839 63.219 Sanctions.--Upon a finding by the court that an
1840 adoption entity or any person has willfully violated any
1841 substantive provision of this chapter relative to the rights of
1842 the parties to the adoption and legality of the adoption
1843 process, the court is authorized to prohibit the adoption entity
1844 or any person from placing a minor for adoption and enjoin them
1845 from engaging in further placement activities in the future in
1846 this state.

1847 Section 31. Section 63.236, Florida Statutes, is created
1848 to read:

1849 63.236 Petitions filed before effective date; governing
1850 law.--Any petition for termination of parental rights filed
1851 before the July 1, 2005, shall be governed by the law in effect
1852 at the time the petition was filed.

1853 Section 32. Paragraph (a) of subsection (2), paragraph (a)
1854 of subsection (3), and subsection (5) of section 409.166,
1855 Florida Statutes, are amended to read:

1856 409.166 Special needs children; subsidized adoption
1857 program.--

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1858 (2) DEFINITIONS.--As used in this section, the term:
 1859 (a) "Special needs child" means a child whose permanent
 1860 custody has been awarded to the department or to a licensed
 1861 child-placing agency or placed through an adoption intermediary
 1862 and:
 1863 1. Who has established significant emotional ties with his
 1864 or her foster parents; or
 1865 2. Is not likely to be adopted because he or she is:
 1866 a. Eight years of age or older;
 1867 b. Mentally retarded;
 1868 c. Physically or emotionally handicapped;
 1869 d. Of black ~~or racially mixed~~ parentage; or
 1870 e. A member of a sibling group of any age, provided two or
 1871 more members of a sibling group remain together for purposes of
 1872 adoption.
 1873 (3) ADMINISTRATION OF PROGRAM.--
 1874 (a) The department shall establish and administer an
 1875 adoption program for special needs children to be carried out by
 1876 the department or by contract with a licensed child-placing
 1877 agency or adoption intermediary. The program shall attempt to
 1878 increase the number of persons seeking to adopt special needs
 1879 children and the number of adoption placements and shall extend
 1880 subsidies and services, when needed, to the adopting parents of
 1881 a special needs child.
 1882 (5) WAIVER OF ADOPTION FEES.--The adoption fees shall be
 1883 waived for all adoptive parents who participate in the program
 1884 who adopt children in the custody of the department. Fees may be
 1885 waived for families who adopt children in the custody of

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1886 | licensed child-placing agencies or who adopt children through
 1887 | intermediary-placed ~~independent~~ adoptions, and who receive or
 1888 | may be eligible for subsidies through the department.
 1889 | Retroactive reimbursement of fees may not be required for
 1890 | families who adopt children in the custody of licensed child-
 1891 | placing agencies.

1892 | Section 33. Paragraph (b) of subsection (5), paragraph (b)
 1893 | of subsection (10), paragraph (b) of subsection (11), and
 1894 | subsection (14) of section 409.176, Florida Statutes, are
 1895 | amended to read:

1896 | 409.176 Registration of residential child-caring agencies
 1897 | and family foster homes.--

1898 | (5) The licensing provisions of s. 409.175 do not apply to
 1899 | a facility operated by an organization that:

1900 | (b) Is certified by a Florida statewide child care
 1901 | organization which was in existence on January 1, 1984, and
 1902 | which publishes, and requires compliance with, its standards and
 1903 | files copies thereof with the department. These ~~Such~~ standards
 1904 | shall be in substantial compliance with published minimum
 1905 | standards that similar licensed child-caring agencies, licensed
 1906 | child-placing agencies, or family foster homes are required to
 1907 | meet, as determined by the department, with the exception of
 1908 | those standards of a curricular or religious nature and those
 1909 | relating to staffing or financial stability of licensed child-
 1910 | caring agencies or foster homes. Once the department has
 1911 | determined that the standards for child-caring agencies, child-
 1912 | placing agencies, or family foster homes are in substantial
 1913 | compliance with minimum standards that similar facilities are

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1914 required to meet, the standards do not have to be resubmitted to
 1915 the department unless a change occurs in the standards. Any
 1916 changes in the standards shall be provided to the department
 1917 within 10 days of their adoption.

1918 (10)

1919 (b) The qualified association shall notify the department
 1920 when the qualified association finds, within 30 days after
 1921 written notification by registered mail of the requirement for
 1922 registration, that a person or facility continues to care for
 1923 children without a certificate of registration. The department
 1924 shall notify the appropriate state attorney of the violation of
 1925 law and, if necessary, shall institute a civil suit to enjoin
 1926 the person or facility from continuing the care or placement of
 1927 children.

1928 (11)

1929 (b) If the department determines that a person or facility
 1930 is caring for or placing a child without a valid certificate of
 1931 registration issued by the qualified association or has made a
 1932 willful or intentional misstatement on any registration
 1933 application or other document required to be filed in connection
 1934 with an application for a certificate of registration, the
 1935 qualified association, as an alternative to or in conjunction
 1936 with an administrative action against the ~~such~~ person or
 1937 facility, shall make a reasonable attempt to discuss each
 1938 violation with, and recommend corrective action to, the person
 1939 or the administrator of the facility, prior to written
 1940 notification thereof.

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1941 (14) Registration under this section, including the issue
 1942 of substantial compliance with published minimum standards that
 1943 similar licensed child-caring facilities, licensed child-placing
 1944 agencies, or family foster homes are required to meet, as
 1945 provided in paragraph (5) (b), is subject to ~~the provisions of~~
 1946 chapter 120.

1947 Section 34. Section 742.14, Florida Statutes, is amended
 1948 to read:

1949 742.14 Donation of eggs, sperm, or preembryos.--The donor
 1950 of any egg, sperm, ~~or~~ preembryo, or embryo, other than the
 1951 commissioning couple or a father who has executed a preplanned
 1952 adoption agreement under s. 63.212, shall relinquish all
 1953 maternal or paternal rights and obligations with respect to the
 1954 donation or the resulting children simultaneously upon the
 1955 completion of the donation by operation of law. Only reasonable
 1956 compensation directly related to the donation of eggs, sperm,
 1957 ~~and~~ preembryos, and embryos shall be permitted.

1958 Section 35. Subsection (2) of section 742.15, Florida
 1959 Statutes, is amended to read:

1960 742.15 Gestational surrogacy contract.--

1961 (2) The commissioning couple shall enter into a contract
 1962 with a gestational surrogate only when, within reasonable
 1963 medical certainty as determined by a physician licensed under
 1964 chapter 458 or chapter 459 or a physician licensed under an
 1965 equivalent law in the physician's state of practice:

1966 (a) The commissioning mother cannot physically gestate a
 1967 pregnancy to term;

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1968 (b) The gestation will cause a risk to the physical health
1969 of the commissioning mother; or

1970 (c) The gestation will cause a risk to the health of the
1971 fetus.

1972 Section 36. Subsections (6) and (7) of section 742.16,
1973 Florida Statutes, are amended to read:

1974 742.16 Expedited affirmation of parental status for
1975 gestational surrogacy.--

1976 (6) The commissioning couple or their legal representative
1977 shall appear at the hearing on the petition. At the conclusion
1978 of the hearing, after the court has determined that a binding
1979 and enforceable gestational surrogacy contract has been executed
1980 pursuant to s. 742.15 and that there is no evidence that the
1981 gestational surrogate is the genetic mother ~~at least one member~~
1982 ~~of the commissioning couple is the genetic parent~~ of the child,
1983 the court shall enter an order stating that the commissioning
1984 couple are the legal parents of the child.

1985 (7) When there is no evidence that the gestational
1986 surrogate is the genetic mother ~~at least one member of the~~
1987 ~~commissioning couple is the genetic parent~~ of the child, the
1988 commissioning couple shall be presumed to be the natural parents
1989 of the child.

1990 Section 37. Section 742.18, Florida Statutes, is created
1991 to read:

1992 742.18 Prohibited fees and acts.--

1993 (1) A person or entity, except a licensed physician,
1994 fertility clinic, or attorney, may not:

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1995 (a) Receive compensation in advising or assisting in donor
1996 or gestational carrier arrangements.

1997 (b) Advertise or offer to the public, in any way, by any
1998 medium whatsoever, that a donor, carrier, or intended parent is
1999 sought for or available for matching or that the person or
2000 entity provides services in the arrangements.

2001 (c) Publish or broadcast any advertisement except that an
2002 intended parent or parents, carrier, or donor seeks a donor,
2003 intended parent, or carrier for the person's or entity's own
2004 arrangement.

2005 (d) Charge or accept any fee or compensation of any nature
2006 to or from anyone for making a referral in connection with a
2007 donor or carrier agreement or for facilitating such an
2008 arrangement.

2009 (e) Hold funds in escrow in a donor or gestational carrier
2010 arrangement.

2011 (f) Assist in the commission of any act in paragraphs (a) -
2012 (e).

2013 (2) A fee, whether denominated as an agent, agency,
2014 finder, or facilitator's fee for finding, screening, matching,
2015 or facilitating a donor or gestational carrier arrangement, may
2016 not be paid to or received by a person other than a licensed
2017 physician, fertility clinic, or attorney.

2018 (3) A person or entity who violates this section may be
2019 enjoined by a court from engaging in these practices in this
2020 state.

2021 (4) (a) A person who willfully violates this section
2022 commits a misdemeanor of the second degree, punishable as

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2023 | provided in s. 775.082 or s. 775.083. Each day of a continuing
2024 | violation constitutes a separate offense.

2025 | (b) A person who violates this section is liable for
2026 | damages caused by his or her acts or omissions and for
2027 | reasonable attorney's fees and costs. Damages may be awarded
2028 | through restitution in any related criminal prosecution or by
2029 | filing a separate civil action.

2030 | Section 38. This act shall take effect July 1, 2005.