

Council Substitute for House Bill No. 663

An act relating to the termination of parental rights; amending s. 39.812, F.S.; requiring a petition for adoption to be accompanied by a statement verifying that adoptive parents have received all information required to be disclosed; amending s. 49.011, F.S.; providing for service of process by publication for termination of parental rights under ch. 63, F.S.; amending s. 63.032, F.S.; redefining terms; amending s. 63.037, F.S.; specifying applicability of exemptions from disclosure requirements for adoption entities under certain circumstances; amending s. 63.039, F.S.; requiring an adoption entity to provide adoption disclosure statements to persons whose consent is required for adoption; requiring attorney's fees and costs in certain actions to be awarded pursuant to the Florida Rules of Civil Procedures; amending s. 63.0425, F.S.; clarifying a grandparent's right to notice; amending s. 63.054, F.S.; providing that an unmarried biological father who fails to register with the Florida Putative Father Registry before the filing of a petition for termination of parental rights may not file a paternity claim under ch. 742, F.S.; providing an exception from the time limitations for filing a paternity claim; providing that if a registrant fails to report a change of address, the adoption entity or adoption petitioner is not obligated to search further for the registrant; requiring a petitioner in a proceeding in which parental rights are terminated simultaneously with entry of final judgment of adoption to contact the Office of Vital Statistics for a search of the registry; providing procedures for searching the registry when termination of parental rights and an adoption proceeding are adjudicated separately; amending s. 63.062, F.S.; revising criteria for serving notice of terminating parental rights to the father of a minor; revising procedures for serving notice of intended adoption plan; providing criteria for avoiding default on providing consent to adoption; providing for the proper venue to file a petition to terminate parental rights; amending s. 63.063, F.S.; revising the standard for compliance with laws relating to adoption; amending s. 63.082, F.S.; revising the notice and consent requirements to adoption to also exclude cases involving sexual activity with certain minors; revising consent requirements that apply to men; limiting the time period for revoking consent to adopt a child older than 6 months of age to 3 business days; revising requirements for withdrawing a consent for adoption; amending s. 63.085, F.S.; revising requirements for required disclosures by an adoption entity; requiring that background information concerning the child be revealed to prospective adoptive parents; amending s. 63.087, F.S.; revising procedures for terminating parental rights pending an adoption; providing the proper venue in which to file a petition to terminate parental rights; providing for joint petitions for termination of parental rights and adoption; providing that failure to appear at certain hearings constitutes grounds for termination of parental rights; removing a provision relating to the procedure for notifying a petitioner of a final hearing; amending s. 63.088, F.S.; providing that a mother's failure

to identify an unmarried biological father is not a defense to a termination of parental rights; revising information relating to a court's inquiry about the father of the child who is to be adopted; requiring persons contacted by a petitioner or adoption entity to release certain records; providing that a judgment approving a diligent search is not subject to direct or collateral attack; amending s. 63.089, F.S.; revising provisions relating to service of notice and petition regarding termination of parental rights and consent to adoption; revising conditions for making a finding of abandonment; prohibiting a person who failed to establish parental rights from challenging a judgment terminating parental rights under certain circumstances; amending s. 63.092, F.S.; revising the conditions and timeframe for an adoption entity to report to the court the intent to place a minor for adoption; amending s. 63.102, F.S.; revising procedures for the filing of a petition for adoption; providing the proper venue where the petition may be filed; amending s. 63.122, F.S.; revising whose name may be removed from a petition under certain circumstances; amending s. 63.132, F.S.; providing additional exceptions to the requirement that the adoptive parent and the adoption entity file an affidavit itemizing all expenses and receipts; amending s. 63.135, F.S.; requiring the adoption entity or petitioner to file an affidavit under the Uniform Child Custody Jurisdiction and Enforcement Act in a termination of parental rights proceeding; deleting information required to be submitted under oath to the court; amending s. 63.142, F.S.; requiring that if an adoption petition is dismissed, any further proceedings regarding the minor be brought in a separate custody action under ch. 61, F.S., a dependency action under ch. 39, F.S., or a paternity action under ch. 742, F.S.; revising conditions under which a judgment terminating parental rights is voidable; amending s. 63.192, F.S.; requiring the courts of this state to recognize decrees of termination of parental rights and adoptions from other states and countries; amending s. 63.212, F.S.; revising acts that are unlawful pertaining to adoptions; creating s. 63.236, F.S.; providing that a petition for termination of parental rights filed before the effective date of the act is governed by the law in effect at the time the petition was filed; amending s. 742.021, F.S.; requiring the clerk of court to issue certain notice in cases of complaints concerning determination of paternity; amending s. 742.10, F.S.; providing applicability of chs. 39 and 63, F.S., to jurisdiction and procedures for determination of paternity for children born out of wedlock; providing an effective date.

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

Section 1. Subsection (5) of section 39.812, Florida Statutes, is amended to read:

39.812 Postdisposition relief; petition for adoption.—

(5) The petition for adoption must be filed in the division of the circuit court which entered the judgment terminating parental rights, unless a motion for change of venue is granted pursuant to s. 47.122. A copy of the

consent executed by the department as ~~required under s. 63.062(7)~~ must be attached to the petition, unless waived pursuant to s. 63.062(7) ~~the court determines that such consent is being unreasonably withheld and provided that the petitioner has filed with the court a favorable preliminary adoptive home study performed by a licensed child-placing agency, a child-caring agency registered under s. 409.176, or a licensed professional or agency described in s. 61.20(2).~~ The petition must be accompanied by a statement, signed by the prospective adoptive parents, acknowledging receipt of all information required to be disclosed under s. 63.085 and a form provided by the department which details the social and medical history of the child and each parent and includes the social security number and date of birth for each parent, if such information is available or readily obtainable. The prospective adoptive parents ~~person seeking to adopt the child~~ may not file a petition for adoption until the judgment terminating parental rights becomes final. An adoption proceeding under this subsection is governed by chapter 63, ~~as limited under s. 63.037.~~

Section 2. Subsection (13) of section 49.011, Florida Statutes, is amended to read:

49.011 Service of process by publication; cases in which allowed.—Service of process by publication may be made in any court on any party identified in s. 49.021 in any action or proceeding:

(13) For termination of parental rights pursuant to part IX of chapter 39 or chapter 63.

Section 3. Subsections (4) through (20) of section 63.032, Florida Statutes, are amended to read:

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

~~(4)(20)~~ “Adoption plan” means an arrangement ~~arrangements~~ made by a birth parent or other individual having a legal right to custody of a minor child, born or to be born, with an adoption entity in furtherance of placing the placement of the minor for adoption.

~~(5)(4)~~ “Adult” means a person who is not a minor.

~~(6)(5)~~ “Agency” means any child-placing agency licensed by the department pursuant to s. 63.202 to place minors for adoption.

~~(7)(6)~~ “Child” means any unmarried person under the age of 18 years who has not been emancipated by court order a son or daughter, whether by birth or adoption.

~~(8)(7)~~ “Court” means a ~~any~~ circuit court of this state and, ~~if when~~ the context requires, the court of any state that is empowered to grant petitions for adoption.

~~(9)(8)~~ “Department” means the Department of Children and Family Services.

~~(10)~~(9) “Intermediary” means an attorney who is licensed or authorized to practice in this state and who is placing or intends to place a child for adoption, including placing children born in another state with citizens of this state or country or placing children born in this state with citizens of another state or country.

~~(11)~~(10) “Legal custody” has the meaning ascribed in s. 39.01.

~~(11)~~—“Minor” means a person under the age of 18 years.

(12) “Parent” means a woman who gives birth to a child or a man whose consent to the adoption of the child would be required under s. 63.062(1). If a child has been legally adopted, the term “parent” means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated or an alleged or prospective parent has the same meaning ascribed in s. 39.01.

(13) “Person” includes a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, and any other legal entity.

~~(14)~~—“Relative” means a person related by blood to the person being adopted within the third degree of consanguinity.

~~(15)~~—“To place” means the process of a parent or legal guardian surrendering a child for adoption and the prospective adoptive parents receiving and adopting the child, and includes all actions by any person or adoption entity participating in the process.

~~(14)~~(16) “Placement” means the process of a parent or legal guardian surrendering a child for adoption and the prospective adoptive parents receiving and adopting the child and all actions by any adoption entity participating in placing the child.

~~(15)~~(17) “Primarily lives and works outside Florida” means that a person who lives and works outside this state at least 6 months and 1 day per of the year, is a member of the military personnel who designates a state other than ~~designates~~ Florida as his or her their place of residence in accordance with the Servicemembers’ Civil Relief Act, Pub. L. No. 108-189, or is a citizen employees of the United States Department of State living in a foreign country who designates ~~designates~~ a state other than Florida as his or her their place of residence.

~~(16)~~ “Relative” means a person related by blood to the person being adopted within the third degree of consanguinity.

~~(17)~~(18) “Suitability of the intended placement” means includes the fitness of the intended placement, with primary consideration being given to the best interest of the child.

(18) “To place” means the process whereby a parent or legal guardian surrenders a child for adoption and the prospective adoptive parents receive and adopt the child, and includes all actions by any person or adoption entity participating in the process.

(19) “Unmarried biological father” means the child’s biological father who is not married to the child’s mother at the time of conception or birth of the child and who, before the filing of a petition to terminate parental rights, has not been adjudicated declared by a court of competent jurisdiction to be the legal father of the child or has not executed an affidavit pursuant to s. 382.013(2)(c).

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

63.037 Proceedings applicable to cases resulting from a termination of parental rights under chapter 39.—A case in which a minor becomes available for adoption after the parental rights of each parent have been terminated by a judgment entered pursuant to chapter 39 shall be governed by s. 39.812 and this chapter. Adoption proceedings initiated under chapter 39 are exempt from the following provisions of this chapter: disclosure requirements for the adoption entity provided in s. 63.085(1); general provisions governing termination of parental rights pending adoption provided in s. 63.087; notice and service provisions governing termination of parental rights pending adoption provided in s. 63.088; and procedures for terminating parental rights pending adoption provided in s. 63.089.

Section 5. Paragraph (i) of subsection (1) of section 63.039, Florida Statutes, is amended, paragraph (j) is added to that subsection, and subsection (3) of that section is amended, to read:

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

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

(i) Obtain the written waiver of venue required under s. 63.062, if applicable in cases in which venue for the termination of parental rights will be located in a county other than the county where a parent whose rights are to be terminated resides.

(j) Provide an adoption disclosure statement, as required under s. 63.085(1), to all persons whose consent is required under s. 63.062(1).

(3) The prevailing party in an action to set aside a judgment terminating parental rights pending adoption or a judgment of adoption may be awarded reasonable attorney’s fees and costs pursuant to Rule 1.540(b)(3), Florida Rules of Civil Procedure. An award under this subsection must be paid by the adoption entity or by the ~~any~~ applicable insurance carrier on behalf of the adoption entity if the court finds that the acts or omissions of the entity were the basis for the court’s order granting relief to the prevailing party.

Section 6. Section 63.0425, Florida Statutes, is amended to read:

63.0425 Grandparent's right to notice adopt.—

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

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

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

(4) ~~Nothing in~~ This section does not ~~shall~~ contravene the provisions of s. 63.142(4).

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

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

(1) In order to preserve the right to notice and consent to an adoption under this chapter, an unmarried biological father must, as the "registrant," file a notarized claim of paternity form with the Florida Putative Father Registry maintained by the Office of Vital Statistics of the Department of Health which includes and shall include therein confirmation of his willingness and intent to support the child for whom paternity is claimed in accordance with state law. The claim of paternity may be filed at any time before ~~prior to~~ the child's birth, but a claim of paternity may not be filed after the date a petition is filed for termination of parental rights. In each proceeding for termination of parental rights, the petitioner must ~~shall~~ submit to the Office of Vital Statistics of the Department of Health a copy of the petition for termination of parental rights. The Office of Vital Statistics may ~~of the Department of Health shall~~ not record a claim of paternity after the date that a petition for termination of parental rights is filed. The failure of an unmarried biological father to file a claim of paternity with the registry before the date a petition for termination of parental rights is filed also bars him from filing a paternity claim under chapter 742.

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

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

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

(b) If an unmarried biological father falls within the exception provided by paragraph (a), the petitioner shall also submit to the Office of Vital

Statistics a copy of the notice of intended adoption plan and proof of service of the notice on the potential biological father.

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

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

(7) In each proceeding for termination of parental rights or each adoption proceeding in which parental rights are being terminated simultaneously with entry of the final judgment of adoption, as in a stepparent and relative adoption filed under this chapter, the petitioner must contact the Office of Vital Statistics ~~of the Department of Health~~ by submitting an application for a search of the Florida Putative Father Registry. The petitioner must shall provide the same information, if known, on the search application form that which the registrant furnished is required to furnish under subsection (3). Thereafter, the Office of Vital Statistics shall must issue a certificate signed by the State Registrar certifying:

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

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

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

Section 8. Paragraph (b) of subsection (1) and subsections (3), (7), and (9) of section 63.062, Florida Statutes, are amended to read:

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

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

(b) The father of the minor, if:

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

2. The minor is his child by adoption;

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

4. He has filed an affidavit of paternity pursuant to s. 382.013(2)(c) by the date a petition is filed for termination of parental rights; or

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

(3)(a) Pursuant to chapter 48, an adoption entity ~~shall~~ may serve a notice of intended adoption plan upon any known and locatable unmarried biological father who is identified to the adoption entity by the mother by the date she signs her consent for adoption or who is identified by a diligent search of the Florida Putative Father Registry, or upon an entity whose consent is required. Service of the notice of intended adoption plan is not mandatory when the unmarried biological father signs a consent for adoption or an affidavit of nonpaternity. The notice may be served, a notice of intended adoption plan at any time before the child's birth or before placing prior to the placement of the child in the adoptive home, including prior to the birth of the child. The recipient of the notice may waive service of process by executing a waiver and acknowledging receipt of the plan. The notice of intended adoption plan must specifically state that if the unmarried biological father desires to contest the adoption plan, he must, within 30 days after service, file with the court, ~~within 30 days after service,~~ a verified response that contains a pledge of commitment to the child in substantial compliance with subparagraph (2)(b)2. and The notice of intended adoption plan shall notify the unmarried biological father that he must file a claim of paternity form with the Office of Vital Statistics, within 30 days after service upon him and must provide the adoption entity with a copy of the verified response filed with the court and the claim of paternity form filed with the Office of Vital Statistics. The notice must also include instructions for submitting a claim of paternity form to the Office of Vital Statistics and the address to which the claim must be sent. If the party served with the notice of intended adoption plan is an entity whose consent is required, the notice must specifically state that the entity must file, within 30 days after service, a verified response setting forth a legal basis for contesting the intended adoption plan, specifically addressing the best interest of the child.

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

1. The unmarried biological father must:

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

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

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

2. The entity whose consent is required must file a verified response setting forth a legal basis for contesting the intended adoption plan, specifically addressing the best interest of the child. Each notice of intended adoption plan served upon an unmarried biological father must include instructions as to the procedure the unmarried biological father must follow to submit a claim of paternity form to the Office of Vital Statistics and the address to which the registration must be directed.

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

~~(7) If parental rights to the minor have previously been terminated, the adoption entity with which the minor has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required. The consent of the department shall be waived upon a determination by the court that such consent is being unreasonably withheld and if, provided that the petitioner has filed with the court a favorable preliminary adoptive home study as required under s. 63.092 performed by a licensed~~

child-placing agency, a child-caring agency registered under s. 409.176, or a licensed professional or agency described in s. 61.20(2).

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

Section 9. Section 63.063, Florida Statutes, is amended to read:

63.063 Responsibility of ~~parents~~ each party for their own actions; fraud or misrepresentation; ~~contesting termination of parental rights and adoption~~ statutory compliance.—

(1) Each parent of a child conceived or born outside of marriage is responsible for his or her ~~own~~ actions and is not excused from ~~strict~~ strict compliance with ~~the provisions~~ of this chapter based upon any action, statement, or omission of the other parent or a third party, except as provided in s. 63.062(2)(a).

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

(3) The Legislature finds no way to remove all risk of fraud or misrepresentation in adoption proceedings and has provided a method for absolute protection of an unmarried biological father's rights ~~through~~ by compliance with ~~the provisions~~ of this chapter. In balancing the rights and interests of the state and of all parties affected by fraud, including the child, the adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and, therefore, has the burden of preventing fraud.

(4) The Legislature finds that an unmarried biological father who resides in another state may not, in every circumstance, be reasonably presumed to know ~~of~~ and comply with the requirements of this chapter. Therefore, if all of the following requirements have been met, an unmarried biological father may contest a termination of parental rights or subsequent adoption and, ~~before~~ prior to entry of the final judgment of adoption, assert his interest in the child. Following such assertion, the court may, ~~in its discretion~~, proceed with an evidentiary hearing if:

(a) The unmarried biological father resides and has resided in another state where the unmarried mother was also located or resided.

(b) The unmarried mother left that state without notifying or informing the unmarried biological father that she could be located in this ~~the~~ state of Florida.

(c) The unmarried biological father has, through every reasonable means, attempted to locate the mother but does not know or have reason to know that the mother is residing in this ~~the~~ state of Florida.

(d) The unmarried biological father has substantially complied with the requirements of the state where the mother previously resided or was located in order to protect and preserve his parental interest and rights with regard to the child.

Section 10. Paragraph (d) of subsection (1), paragraphs (b), (c), and (e) of subsection (4), paragraphs (a), (b), and (d) of subsection (6), and subsection (7) of section 63.082, Florida Statutes, are amended to read:

63.082 Execution of consent to adoption or affidavit of nonpaternity; family social and medical history; withdrawal of consent.—

(1)

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

(4)

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

(c) ~~If When~~ the minor to be adopted is older than 6 months of age at the time of the execution of the consent, the consent to adoption is valid upon execution; however, it is subject to a ~~3-day~~ revocation period of 3 business days ~~or may be revoked at any time prior to the placement of the minor with the prospective adoptive parents, whichever is later. If a consent has been executed, this subsection may not be construed to provide a birth parent with more than 3 days to revoke the consent once the child has been placed with the prospective adoptive parents.~~

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

CONSENT TO ADOPTION

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

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

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

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

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

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

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

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

(b) Upon execution of the consent of the ~~birth~~ parent, the adoption entity ~~may shall be permitted to~~ intervene in the dependency case as a party in interest and must shall provide the court having jurisdiction over the minor, pursuant to the shelter or dependency petition filed by the department, with a copy of the preliminary home study of the prospective adoptive parents and any other evidence of the suitability of the placement. The preliminary home study must shall be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which an adoption entity has intervened pursuant to this section.

(d) In determining whether the best interest of the child ~~is will be~~ served by transferring the custody of the minor child to the prospective adoptive parent selected by the ~~birth~~ parent, the court shall consider ~~give consideration to~~ the rights of the ~~birth~~ parent to determine an appropriate placement for the child, the permanency offered, the child's bonding with any potential adoptive home that the child has been residing in, and the importance of maintaining sibling relationships, if possible.

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

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

(b) Upon receiving timely written notice from a person whose consent to adoption is required ~~of that person's desire to withdraw consent to adoption,~~ the adoption entity must contact the prospective adoptive parent to arrange

a time certain for the adoption entity to regain physical custody of the minor, unless, upon a motion for emergency hearing by the adoption entity, the court determines in written findings that placement of the minor with the person who had legal or physical custody of the child immediately before the child was placed for adoption ~~withdrawing consent~~ may endanger the minor, or that the person who desires to withdraw consent is to the adoption would not be required to consent to the adoption, or has been determined to have abandoned the child, or is otherwise subject to a determination that the person's consent is waived under this chapter.

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

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

(e) The adoption entity must return the minor within 3 business days after timely and proper notification of the withdrawal of consent or after the court determines that withdrawal is valid and binding upon consideration of an emergency motion, as filed pursuant to paragraph (b), to the physical custody of the person withdrawing consent or the person directed by the court. If the person seeking to ~~validly~~ withdraw consent claims to be the father of the minor but has not been established to be the father by marriage, court order, or scientific testing, the adoption entity may return the minor to the care and custody of the mother, if she desires such placement, and ~~she the mother~~ is not otherwise prohibited by law from having custody of the child.

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

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

Section 11. Section 63.085, Florida Statutes, is amended to read:

63.085 Disclosure by adoption entity.—

(1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE ADOPTIVE PARENTS.—~~Within Not later than~~ 14 days after a person seeking to adopt a minor or a person seeking to place a minor for adoption contacts an adoption entity in person or provides the adoption entity with a mailing address, the entity must provide a written disclosure statement to that person if the entity agrees or continues to work with ~~the such~~ person. The If an adoption entity shall also provide the written disclosure to the parent is assisting in the effort to terminate the parental rights of a parent who did not initiate the contact with the adoption entity, the written disclosure must be provided within 14 days after that parent is identified and located. For purposes of providing the written disclosure, a person is considered to be seeking to place a minor for adoption ~~if~~ when that person has sought information or advice from the adoption entity regarding the option of adoptive placement. The written disclosure statement must be in substantially the following form:

ADOPTION DISCLOSURE

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

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

Name:.....

Address:.....

Telephone Number:.....

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

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

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

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

revoked until the child is placed in an adoptive home, or up to 3 days after it was signed, whichever period is longer.

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

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

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

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

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

11.10. A birth parent has a right to receive supportive counseling from a counselor, social worker, physician, clergy, or attorney, ~~and such counseling would be beneficial to the birth parent.~~

12.11. The payment of living or medical expenses by the prospective adoptive parents ~~before~~ prior to the birth of the child does not, in any way, obligate the birth parent to sign the consent for adoption.

(2) DISCLOSURE TO ADOPTIVE PARENTS.—

(a) At the time that an adoption entity is responsible for selecting prospective adoptive parents for a born or unborn child whose parents are

seeking to place the child for adoption or whose rights were terminated pursuant to chapter 39, the adoption entity must provide the prospective adoptive parents with information concerning the background of the child to the extent such information is disclosed to the adoption entity by the parents, legal custodian, or the department. This subsection applies only if the adoption entity identifies the prospective adoptive parents and supervises the physical placement of the child in the prospective adoptive parents' home. If any information cannot be disclosed because the records custodian failed or refused to produce the background information, the adoption entity has a duty to provide the information if it becomes available. An individual or entity contacted by an adoption entity to obtain the background information must release the requested information to the adoption entity without the necessity of a subpoena or a court order. In all cases, the prospective adoptive parents must receive all available information by the date of the final hearing on the petition for adoption. The information to be disclosed includes:

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

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

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

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

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

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

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

(b) When disclosing information pursuant to this subsection, the adoption entity must redact any confidential identifying information concerning the child's parents, foster parents and their families, siblings, relatives, and perpetrators of crimes against the child or involving the child.

~~(3)~~⁽²⁾ **ACKNOWLEDGMENT OF DISCLOSURE.**—The adoption entity must obtain a written statement acknowledging receipt of the disclosures disclosure required under this section subsection (1) and signed by the persons receiving the disclosure or, if it is not possible to obtain such an acknowledgment, the adoption entity must execute an affidavit stating why an acknowledgment could not be obtained. If the disclosure was delivered

by certified ~~United States~~ mail, return receipt requested, a return receipt signed by the person from whom acknowledgment is required is sufficient to meet the requirements of this subsection. A copy of the acknowledgment of receipt of the disclosure must be provided to the person signing it. A copy of the acknowledgment or affidavit executed by the adoption entity in lieu of the acknowledgment must be maintained in the file of the adoption entity. The original acknowledgment or affidavit must be filed with the court.

~~(4)(3)~~ **REVOCATION OF CONSENT.**—Failure to meet the requirements of ~~this section subsection (1) or subsection (2)~~ does not constitute grounds for revocation of a consent to adoption or withdrawal of an affidavit of nonpaternity unless the extent and circumstances of such a failure result in a material failure of fundamental fairness in the administration of due process, or the failure constitutes or contributes materially to fraud or duress in obtaining a consent to adoption or affidavit of nonpaternity.

Section 12. Subsections (2), (3), and (6) of section 63.087, Florida Statutes, are amended to read:

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

(2) VENUE.—

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

1. In the county where the child resides; or
2. ~~If the child does not reside in the State of Florida,~~ In the county where the adoption entity is located;
3. ~~In the county where the adoption entity is located; or~~
4. ~~If neither parent resides in the state, in the county where the adoption entity is located. The fact of the minor's presence within the state confers jurisdiction on the court in proceedings in the minor's case under this chapter, or to a parent or guardian if due notice has been given.~~

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

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

For purposes of the hearing under this subsection, witnesses located in another jurisdiction may testify by deposition or testify by telephone, audio-visual means, or other electronic means before a designated court or at another location. Documentary evidence transmitted from another location by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission. The court on its own motion may otherwise prescribe the manner ~~in which~~ and the terms upon which the testimony is taken.

(3) PREREQUISITE FOR ADOPTION.—A petition for adoption may not be filed until after the date the court enters the judgment terminating parental rights pending adoption ~~under this chapter or under chapter 39.~~ Adoptions of relatives, adult adoptions, or adoptions of stepchildren are ~~shall~~ not be required to file a separate termination of parental rights proceeding pending adoption. In such cases, the petitioner may file a joint petition for termination of parental rights and adoption, attaching all required consents, affidavits, notices, and acknowledgments shall be attached to the petition for adoption or filed separately in the adoption proceeding. Unless otherwise provided by law, this chapter applies to joint petitions.

(6) ANSWER AND APPEARANCE REQUIRED.—An answer to the petition or any pleading requiring an answer must ~~shall~~ be filed in accordance with the Florida Family Law Rules of Civil Procedure. Failure to file a written response ~~or to appear at the hearing on the petition~~ constitutes grounds upon which the court may terminate parental rights. Failure to appear at the hearing constitutes grounds upon which the court may terminate parental rights. The petitioner shall provide notice of the final hearing by United States mail to any person who has been served with the summons and petition for termination of parental rights within the specified time periods. Notwithstanding the filing of any answer or any pleading, Any person present at the hearing to terminate parental rights pending adoption whose consent to adoption is required under s. 63.062 must:

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

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

Section 13. Subsections (1), (3), (4), and (5) of section 63.088, Florida Statutes, are amended to read:

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

(1) NOTICE REQUIRED.—An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman, is deemed to be on notice that a pregnancy and an adoption proceeding regarding that child may occur and that he has a duty to protect his own rights and interest. He is, therefore, entitled to notice of a birth or adoption proceeding with regard to that child only as provided in this chapter. If a mother fails to identify an unmarried biological father to the adoption entity by the date

she signs her consent for adoption, the unmarried biological father's claim that he did not receive actual notice of the adoption proceeding is not a defense to the termination of his parental rights.

(3) LOCATION AND IDENTITY KNOWN.—Before the court may determine that a minor is available for adoption, ~~and in addition to the other requirements set forth in this chapter,~~ each person whose consent is required under s. 63.062, who has not executed a consent for adoption or an affidavit of nonpaternity, and whose location and identity have been determined by compliance with the procedures in this section must be personally served, pursuant to chapter 48, at least 20 days before the hearing with a copy of the petition to terminate parental rights pending adoption and with notice in substantially the following form:

NOTICE OF PETITION AND HEARING
TO TERMINATE PARENTAL RIGHTS
PENDING ADOPTION

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

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

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

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

(b) Any man who has filed an affidavit of paternity pursuant to s. 382.013(2)(c) before the date that a petition for termination of parental rights is filed with the court ~~person who has been declared by a court to be the father of the minor;~~

(c) Any man who has adopted the minor;

(d) Any man who has been adjudicated by a court as the father of the minor child before the date a petition for termination of parental rights is filed with the court ~~with whom the mother was cohabiting at any time when conception of the minor may have occurred;~~ and

(e) Any man whom the mother identified to the adoption entity as a potential biological father before the date she signed the consent for adoption person who has acknowledged or claimed paternity of the minor.

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

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

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

(b) The last known employment of the person, including the name and address of the person's employer;

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

~~(c)(d)~~ Names and addresses of relatives to the extent they such can be reasonably obtained from the petitioner or other sources, contacts with those relatives, and inquiry as to the person's last known address. The petitioner must shall pursue any leads to of any addresses where to which the person may have moved;

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

~~(e)(f)~~ Telephone listings in the area where the person last resided;

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

~~(g)(h)~~ Highway patrol records in the state where the person last resided;

~~(h)(i)~~ Department of Corrections records in the state where the person last resided;

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

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

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

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

~~(m)~~(n) Search of one Internet databank locator service.

A person contacted by a petitioner or adoption entity requesting records under this subsection must release the requested records to the petitioner or adoption entity without the necessity of a subpoena or a court order, except when prohibited by law. An affidavit of diligent search conducted in accordance with this section executed by the petitioner and the adoption entity must be filed with the court confirming completion of each aspect of the diligent search enumerated in this subsection and specifying the results. The diligent search required under this subsection may be conducted before the birth of the minor. A judgment terminating parental rights and approving a diligent search that fails to locate a person is valid and is not subject to direct or collateral attack because the mother failed or refused to provide the adoption entity with sufficient information to locate the person.

Section 14. Subsections (2), (3), (4), and (6), paragraph (a) of subsection (7), and subsection (8) of section 63.089, Florida Statutes, are amended to read:

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

(2) HEARING PREREQUISITES.—The court may hold the hearing only when:

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

1. A consent under s. 63.082 has been executed and filed with the court;
2. An affidavit of nonpaternity under s. 63.082 has been executed and filed with the court;
3. Notice has been provided under ss. 63.087 and 63.088; or
4. The certificate from the Office of Vital Statistics has been provided to the court stating that a diligent search has been made of the Florida Putative Father Registry created in s. 63.054 and that no filing has been found pertaining to the father of the child in question or, if a filing is found, stating the name of the putative father and the time and date of the filing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Whether the actions alleged to constitute abandonment demonstrate a willful disregard for the safety or welfare of the child or the unborn child;
2. Whether the person alleged to have abandoned the child, while being able, failed to provide financial support;
3. Whether the person alleged to have abandoned the child, while being able, failed to pay for medical treatment; and
4. Whether the amount of support provided or medical expenses paid was appropriate, taking into consideration the needs of the child and relative means and resources available to the person alleged to have abandoned the child.

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

1. The period of time for which the parent has been or is expected to be incarcerated will constitute a significant ~~substantial~~ portion of the child's minority. In determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable home. The period of time begins on the date that the parent enters into incarceration ~~period of time before the child will attain the age of 18 years;~~

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

782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of a substantially similar ~~an offense in another jurisdiction which is substantially similar to one of the offenses listed in this subparagraph.~~ As used in this section, the term “substantially similar offense” means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; or

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

(6) JUDGMENT TERMINATING PARENTAL RIGHTS PENDING ADOPTION.—

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

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

(c) The judgment terminating parental rights pending adoption legally frees the child for subsequent adoption, adjudicates the child's status, and may not be challenged by a person claiming parental status who did not establish parental rights before the filing of the petition for termination, except as specifically provided in this chapter.

(7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

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

(8) RECORDS; CONFIDENTIAL INFORMATION.—All papers and records pertaining to a petition to terminate parental rights pending adoption are related to the subsequent adoption of the minor and are subject to ~~the provisions of s. 63.162.~~ An unmarried biological father does not have standing to seek the court case number or access the court file if the mother did not identify him to the adoption entity before the date she signed the consent for adoption. The confidentiality provisions of this chapter do not apply to the extent information regarding persons or proceedings ~~is~~ must be made available as specified under s. 63.088.

Section 15. Subsection (1) of section 63.092, Florida Statutes, is amended to read:

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

(1) REPORT TO THE COURT.—The adoption entity must report any intended placement of a minor for adoption with any person who is not a relative or a stepparent if the adoption entity ~~has knowledge of, or~~ participates in the, ~~such~~ intended placement. The report must be made to the court before the minor is placed in the home or within 2 business days ~~48 hours~~ thereafter.

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

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

(1) PETITION FOR ADOPTION.—A petition for adoption may not be filed until after the entry of the judgment or decree terminating parental rights ~~pending adoption under this chapter,~~ unless the adoptee is an adult or, the petitioner is a stepparent or a relative, ~~or the minor has been the subject of a judgment terminating parental rights under chapter 39.~~ After a judgment terminating parental rights has been entered, a proceeding for adoption may be commenced by filing a petition entitled, “In the Matter of the Adoption of ...” in the circuit court. The person to be adopted shall be designated in the caption in the name by which he or she is to be known if the petition is granted. Except for a joint petition for the adoption of a stepchild, a relative, or an adult, any name by which the minor was previously known may not be disclosed in the petition, the notice of hearing, ~~or~~ the judgment of adoption, ~~or the court docket as provided in s. 63.162(3).~~

(2) VENUE.—A petition for adoption or for a declaratory statement as to the adoption contract must ~~shall~~ be filed in the county where the petition for termination of parental rights was filed or granted, ~~unless the court, in accordance with s. 47.122, changes the venue to the county where the petitioner or petitioners or the minor resides or where the adoption entity with which the minor has been placed is located.~~ The circuit court in this state shall ~~must~~ retain jurisdiction over the matter until a final judgment is entered on the adoption, either within or outside the state. The Uniform Child Custody Jurisdiction and Enforcement Act does not apply until a final judgment is entered on the adoption.

Section 17. Subsection (3) of section 63.122, Florida Statutes, is amended to read:

63.122 Notice of hearing on petition.—

(3) Upon a showing by the petitioner or parent that the privacy, safety, ~~or and~~ welfare of the petitioner, parent, or minor may be endangered, the court may order that the names of the petitioner, parent, ~~or~~ minor, or all both, ~~to~~ be deleted from the notice of hearing and from the copy of the

petition attached thereto ~~if, provided~~ the substantive rights of any person ~~are will~~ not thereby be affected.

Section 18. Subsection (4) of section 63.132, Florida Statutes, is amended to read:

63.132 Affidavit of expenses and receipts.—

(4) This section does not apply to an adoption by a stepparent or an adoption of a relative or adult, the finalization of an adoption of a minor if the parental rights were terminated under chapter 39, or the domestication of an adoption decree of a minor child adopted in a foreign country.

Section 19. Section 63.135, Florida Statutes, is amended to read:

63.135 Information ~~under oath~~ to be submitted to the court.—

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

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

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

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

~~(2) If the declaration as to any item specified in subsection (1) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath about details of the information furnished and other matters pertinent to the court's jurisdiction and judgment of adoption.~~

~~(2)(3) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state about which he or she obtained information during this proceeding.~~

Section 20. Subsections (3) and (4) of section 63.142, Florida Statutes, are amended to read:

63.142 Hearing; judgment of adoption.—

(3) DISMISSAL.—

(a) If the petition is dismissed, further proceedings, if any, regarding the minor must be brought in a separate custody action under chapter 61, a dependency action under chapter 39, or a paternity action under chapter 742 ~~the court shall determine the person that is to have custody of the minor.~~

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

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

Section 21. Section 63.192, Florida Statutes, is amended to read:

63.192 Recognition of foreign judgment or decree affecting adoption.—A ~~judgment of court~~ terminating the relationship of parent and child or establishing the relationship by adoption, or a decree granting legal guardianship for purposes of adoption, issued pursuant to due process of law by a court or authorized body of any other jurisdiction within or without the United States shall be recognized in this state, and the rights and obligations of the parties ~~on matters within the jurisdiction of this state~~ shall be determined as though the judgment or decree were issued by a court of this state. A judgment or decree of a court or authorized body terminating the relationship of a parent and child, whether independent, incorporated in an adoption decree, or incorporated in a legal guardianship order issued pursuant to due process of law of any other jurisdiction within or without the United States, shall be deemed to effectively terminate parental rights for purposes of a proceeding on a petition for adoption in this state. If a minor child has been made available for adoption in a foreign state or foreign country and the parental rights of the minor child's parent have been terminated or the child has been declared to be abandoned or orphaned, no additional termination of parental rights proceeding need occur, and the adoption may be finalized according to the procedures set forth in this chapter.

Section 22. Subsection (2) of section 63.212, Florida Statutes, is amended to read:

63.212 Prohibited acts; penalties for violation.—

(2)(a) It is unlawful for:

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

1. Knowingly provide false information; or

2. Knowingly withhold material information.

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

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

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

Section 23. Section 63.236, Florida Statutes, is created to read:

63.236 Petitions filed before July 1, 2008; governing law.—A petition for termination of parental rights filed before July 1, 2008, is governed by the law in effect at the time the petition was filed.

Section 24. Section 742.021, Florida Statutes, is amended to read:

742.021 Venue, process, complaint.—

(1) The proceedings must ~~shall~~ be in the circuit court of the county where the plaintiff resides or ~~of~~ the county where the defendant resides.

(2) The complaint shall ~~assert~~ assert sufficient facts charging the paternity of the child. Upon filing of a complaint seeking to determine paternity, the clerk of court shall issue a notice to each petitioner and to each respondent or defendant along with service of the petition. The notice must be in substantially the following form:

In order to preserve the right to notice and consent to the adoption of the child, an unmarried biological father must, as the "registrant," file a notarized claim of paternity form with the Florida Putative Father Registry maintained by the Office of Vital Statistics of the Department of Health which includes confirmation of his willingness and intent to support the child for whom paternity is claimed in accordance with state law. The claim of paternity may be filed at any time before the child's birth, but a claim of paternity may not be filed after the date a petition is filed for termination of parental rights.

(3) ~~Process served on directed to the defendant must require shall issue forthwith requiring the defendant to file written defenses to the complaint in the same manner as suits in chancery. Upon application and proof under oath, the court may issue a writ of ne exeat against the defendant on such terms and conditions and conditioned upon bond in such amount as the court may determine.~~

Section 25. Subsection (1) of section 742.10, Florida Statutes, is amended to read:

742.10 Establishment of paternity for children born out of wedlock.—

(1) Except as provided in chapters 39 and 63, this chapter provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock. If ~~When~~ the establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, or dependency under workers' compensation or similar compensation programs; ~~if, or when~~ an affidavit acknowledging paternity or a stipulation of paternity is executed by both parties and filed with the clerk of the court; ~~if, or when~~ an affidavit, a notarized voluntary acknowledgment of paternity, or a voluntary acknowledgment of paternity that is witnessed by two individuals and signed under penalty of perjury as provided for in s. 382.013 or s. 382.016 is executed by both parties; ~~or if when~~ paternity is adjudicated by the Department of Revenue as provided in s. 409.256, such adjudication, affidavit, or acknowledgment constitutes the establishment of paternity for purposes of this chapter. If ~~an~~ ~~no~~ adjudicatory proceeding was not held, a notarized voluntary acknowledgment of paternity or voluntary acknowledgment of paternity, which ~~that~~ is witnessed by two individuals and signed under penalty of perjury as specified by s. 92.525(2), ~~creates shall create~~ a rebuttable presumption, as defined by s. 90.304, of paternity and is subject to the right of any signatory to rescind the acknowledgment within 60 days after the date the acknowledgment was signed or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party, whichever is earlier. Both parents must provide their social security numbers on any acknowledgment of paternity, consent affidavit, or stipulation of paternity. Except for affidavits under seal pursuant to ss. 382.015 and 382.016, the Office of Vital Statistics shall provide certified copies of affidavits to the Title IV-D agency upon request.

Section 26. This act shall take effect July 1, 2008.

Approved by the Governor June 11, 2008.

Filed in Office Secretary of State June 11, 2008.