

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20 requirement is not superseded; providing that when the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

29 | 63.0425, F.S.; requiring that a child's residence be
30 | continuous for a specified period in order to entitle
31 | the grandparent to notice of certain proceedings;
32 | amending s. 63.0427, F.S.; prohibiting a court from
33 | increasing contact between an adopted child and
34 | siblings, birth parents, or other relatives without
35 | the consent of the adoptive parent or parents;
36 | providing for agreements for contact between a child
37 | to be adopted and the birth parent, other relative, or
38 | previous foster parent of the child; amending s.
39 | 63.052, F.S.; deleting a requirement that a minor be
40 | permanently committed to an adoption entity in order
41 | for the entity to be guardian of the person of the
42 | minor; limiting the circumstances in which an
43 | intermediary may remove a child; providing that an
44 | intermediary does not become responsible for a minor
45 | child's medical bills that were incurred before taking
46 | physical custody of the child; providing additional
47 | placement options for a minor surrendered to an
48 | adoption entity for subsequent adoption when a
49 | suitable prospective adoptive home is not available;
50 | amending s. 63.053, F.S.; requiring that an unmarried
51 | biological father strictly comply with specified
52 | provisions in order to protect his interests; amending
53 | s. 63.054, F.S.; authorizing submission of an
54 | alternative document to the Office of Vital Statistics
55 | by the petitioner in each proceeding for termination
56 | of parental rights; providing that by filing a claim

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

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

113 proceeding to terminate parental rights constitutes
114 grounds for termination; amending s. 63.088, F.S.;
115 providing that in a termination of parental rights
116 proceeding if a required inquiry that identifies a
117 father who has been adjudicated by a court as the
118 father of the minor child before the date a petition
119 for termination of parental rights is filed the
120 inquiry must terminate at that point; amending s.
121 63.089, F.S.; specifying that it is a failure to
122 personally appear that provides grounds for
123 termination of parental rights in certain
124 circumstances; revising provisions relating to
125 dismissal of petitions to terminate parental rights;
126 providing that contact between a parent seeking relief
127 from a judgment terminating parental rights and a
128 child may be awarded only in certain circumstances;
129 providing for placement of a child in the event that a
130 court grants relief from a judgment terminating
131 parental rights and no new pleading is filed to
132 terminate parental rights; amending s. 63.092, F.S.;
133 requiring that a signed copy of the home study must be
134 provided to the intended adoptive parents who were the
135 subject of the study; amending s. 63.097, F.S.;
136 providing guidelines for a court considering a
137 reasonable attorney fee associated with adoption
138 services; amending s. 63.152, F.S.; authorizing an
139 adoption entity to transmit a certified statement of
140 the entry of a judgment of adoption to the state

141 registrar of vital statistics; amending s. 63.162,
142 F.S.; authorizing a birth parent to petition that
143 court to appoint an intermediary or a licensed child-
144 placing agency to contact an adult adoptee and advise
145 both of the availability of the adoption registry and
146 that the birth parent wishes to establish contact;
147 amending s. 63.167, F.S.; requiring that the state
148 adoption center provide contact information for all
149 adoption entities in a caller's county or, if no
150 adoption entities are located in the caller's county,
151 the number of the nearest adoption entity when
152 contacted for a referral to make an adoption plan;
153 amending s. 63.212, F.S.; restricting who may place a
154 paid advertisement or paid listing of the person's
155 telephone number offering certain adoption services;
156 requiring of publishers of telephone directories to
157 include certain statements at the beginning of any
158 classified heading for adoption and adoption services;
159 providing requirements for such advertisements;
160 providing criminal penalties for violations;
161 prohibiting the offense of adoption deception by a
162 person who is a birth mother or a woman who holds
163 herself out to be a birth mother; providing criminal
164 penalties; providing liability by violators for
165 certain damages; amending s. 63.213, F.S.; providing
166 that a preplanned adoption arrangement does not
167 constitute consent of a mother to place her biological
168 child for adoption until 48 hours following birth;

169 providing that a volunteer mother's right to rescind
 170 her consent in a preplanned adoption applies only when
 171 the child is genetically related to her; revising the
 172 definitions of the terms "child," "preplanned adoption
 173 arrangement," and "volunteer mother"; amending s.
 174 63.222, F.S.; providing that provisions designated as
 175 remedial may apply to any proceedings pending on the
 176 effective date of the provisions; amending s. 63.2325,
 177 F.S.; revising terminology relating to revocation of
 178 consent to adoption; providing an effective date.

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

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

187 63.022 Legislative intent.—

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

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

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

197 ~~adult, and stepparent adoptions.~~

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

200 63.032 Definitions.—As used in this chapter, the term:

201 (1) "Abandoned" means a situation in which the parent or
 202 person having legal custody of a child, while being able, makes
 203 little or no provision for the child's support or ~~and~~ makes
 204 little or no effort to communicate with the child, which
 205 situation is sufficient to evince an intent to reject parental
 206 responsibilities. If, in the opinion of the court, the efforts
 207 of such parent or person having legal custody of the child to
 208 support and communicate with the child are only marginal efforts
 209 that do not evince a settled purpose to assume all parental
 210 duties, the court may declare the child to be abandoned. In
 211 making this decision, the court may consider the conduct of a
 212 father towards the child's mother during her pregnancy.

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

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

225 relationship to the child has been legally terminated or an
226 alleged or prospective parent.

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

230 (19) "Unmarried biological father" means the child's
231 biological father who is not married to the child's mother at
232 the time of conception or on the date of the birth of the child
233 and who, before the filing of a petition to terminate parental
234 rights, has not been adjudicated by a court of competent
235 jurisdiction to be the legal father of the child or has not
236 filed ~~executed~~ an affidavit pursuant to s. 382.013(2)(c).

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

239 63.037 Proceedings applicable to cases resulting from a
240 termination of parental rights under chapter 39.—A case in which
241 a minor becomes available for adoption after the parental rights
242 of each parent have been terminated by a judgment entered
243 pursuant to chapter 39 shall be governed by s. 39.812 and this
244 chapter. Adoption proceedings initiated under chapter 39 are
245 exempt from the following provisions of this chapter:

246 requirement for search of the Florida Putative Father Registry
247 provided in s. 63.054(7), if a search was previously completed
248 and documentation of the search is contained in the case file;
249 disclosure requirements for the adoption entity provided in s.
250 63.085(1); general provisions governing termination of parental
251 rights pending adoption provided in s. 63.087; notice and
252 service provisions governing termination of parental rights

253 pending adoption provided in s. 63.088; and procedures for
 254 terminating parental rights pending adoption provided in s.
 255 63.089.

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

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

262 (2) With the exception of an adoption by a relative or
 263 stepparent, all adoptions of minor children require the use of
 264 an adoption entity that will assume the responsibilities
 265 provided in this section.

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

268 63.0423 Procedures with respect to surrendered infants.—

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

278 (2) The adoption entity ~~licensed child-placing agency~~
 279 shall immediately seek an order from the circuit court for
 280 emergency custody of the surrendered infant. The emergency

CS/CS/HB 1163

2012

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

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

302 (4) The parent who surrenders the infant in accordance
303 with s. 383.50 is presumed to have consented to termination of
304 parental rights, and express consent is not required. Except
305 when there is actual or suspected child abuse or neglect, the
306 adoption entity ~~may licensed child-placing agency shall~~ not
307 attempt to pursue, search for, or notify that parent as provided
308 in s. 63.088 and chapter 49. For purposes of s. 383.50 and this

309 section, an infant who tests positive for illegal drugs,
310 narcotic prescription drugs, alcohol, or other substances, but
311 shows no other signs of child abuse or neglect, shall be placed
312 in the custody of an adoption entity. This subsection does not
313 eliminate the reporting requirement under s. 383.50(7). When the
314 department is contacted regarding an infant properly surrendered
315 under this section and s. 383.50, the department shall provide
316 instruction to contact an adoption entity and may not take
317 custody of the infant unless reasonable efforts to contact an
318 adoption entity to accept the infant have not been successful.

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

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

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

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

336 (d) The court shall enter a judgment with written findings

CS/CS/HB 1163

2012

337 of fact and conclusions of law.

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

343 (9) (a) A judgment terminating parental rights pending
344 adoption is voidable, and any later judgment of adoption of that
345 minor is voidable, if, upon the motion of a ~~birth~~ parent, the
346 court finds that a person knowingly gave false information that
347 prevented the ~~birth~~ parent from timely making known his or her
348 desire to assume parental responsibilities toward the minor or
349 from exercising his or her parental rights. A motion under this
350 subsection must be filed with the court originally entering the
351 judgment. The motion must be filed within a reasonable time but
352 not later than 1 year after the entry of the judgment
353 terminating parental rights.

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

CS/CS/HB 1163

2012

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

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

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

385 63.0425 Grandparent's right to notice.—

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

391 Section 7. Section 63.0427, Florida Statutes, is amended
392 to read:

CS/CS/HB 1163

2012

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

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

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

408 (b) Recommendations of the department, the foster parents
 409 if other than the adoptive parents, and the guardian ad litem.

410 (c) Statements of the prospective adoptive parents.

411 (d) Any other information deemed relevant and material by
 412 the court.

413

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

CS/CS/HB 1163

2012

421 of the adoptive parents and child to change residence within or
422 outside the State of Florida may not be impaired by such
423 communication or contact.

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

437 (3) Prospective adoptive parents may enter into an
438 agreement for contact between the child to be adopted and the
439 birth parent, other relative, or previous foster parent of the
440 child to be adopted. Such contact may include visits, written
441 correspondence, telephone contact, exchange of photographs, or
442 other similar types of contact. The agreement is enforceable by
443 the court only if:

444 (a) The agreement was in writing and was submitted to the
445 court.

446 (b) The adoptive parents have agreed to the terms of the
447 contact agreement.

448 (c) The court finds the contact to be in the best

449 interests of the child.

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

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

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

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

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

475 (8) The court may modify the terms of the agreement in
476 order to serve the best interests of the child, but may not

CS/CS/HB 1163

2012

477 increase the amount or type of contact unless the adoptive
478 parents agree to the increase in contact or change in the type
479 of contact.

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

484 Section 8. Subsections (1), (2), (3), and (6) of section
485 63.052, Florida Statutes, are amended to read:

486 63.052 Guardians designated; proof of commitment.—

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

492 (2) For minors who have been voluntarily surrendered to an
493 intermediary through an execution of a consent to adoption, the
494 intermediary shall be responsible for the minor until the time a
495 court orders preliminary approval of placement of the minor in
496 the prospective adoptive home, after which time the prospective
497 adoptive parents shall become guardians pending finalization of
498 adoption, subject to the intermediary's right and responsibility
499 to remove the child from the prospective adoptive home if the
500 removal is deemed by the intermediary to be in the best
501 interests ~~interest~~ of the child. The intermediary may not remove
502 the child without a court order unless the child is in danger of
503 imminent harm. The intermediary does not become responsible for
504 the minor child's medical bills that were incurred before taking

505 physical custody of the child after the execution of adoption
 506 consents. Prior to the court's entry of an order granting
 507 preliminary approval of the placement, the intermediary shall
 508 have the responsibility and authority to provide for the needs
 509 and welfare of the minor. A ~~No~~ minor may not ~~shall~~ be placed in
 510 a prospective adoptive home until that home has received a
 511 favorable preliminary home study, as provided in s. 63.092,
 512 completed and approved within 1 year before such placement in
 513 the prospective home. The provisions of s. 627.6578 shall remain
 514 in effect notwithstanding the guardianship provisions in this
 515 section.

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

524 (6) Unless otherwise authorized by law or ordered by the
 525 court, the department is not responsible for expenses incurred
 526 by other adoption entities participating in a placement of a
 527 minor.

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

530 63.053 Rights and responsibilities of an unmarried
 531 biological father; legislative findings.—

532 (2) The Legislature finds that the interests of the state,

CS/CS/HB 1163

2012

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

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

545 Section 10. Subsections (1), (2), (4), and (13) of section
546 63.054, Florida Statutes, are amended to read:

547 63.054 Actions required by an unmarried biological father
548 to establish parental rights; Florida Putative Father Registry.—

549 (1) In order to preserve the right to notice and consent
550 to an adoption under this chapter, an unmarried biological
551 father must, as the "registrant," file a notarized claim of
552 paternity form with the Florida Putative Father Registry
553 maintained by the Office of Vital Statistics of the Department
554 of Health which includes confirmation of his willingness and
555 intent to support the child for whom paternity is claimed in
556 accordance with state law. The claim of paternity may be filed
557 at any time before the child's birth, but may not be filed after
558 the date a petition is filed for termination of parental rights.
559 In each proceeding for termination of parental rights, the
560 petitioner must submit to the Office of Vital Statistics a copy

CS/CS/HB 1163

2012

561 of the petition for termination of parental rights or a document
562 executed by the clerk of the court showing the style of the
563 case, the names of the persons whose rights are sought to be
564 terminated, and the date and time of the filing of the petition.

565 The Office of Vital Statistics may not record a claim of
566 paternity after the date a petition for termination of parental
567 rights is filed. The failure of an unmarried biological father
568 to file a claim of paternity with the registry before the date a
569 petition for termination of parental rights is filed also bars
570 him from filing a paternity claim under chapter 742.

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

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

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

581 (b) If an unmarried biological father falls within the
582 exception provided by paragraph (a), the petitioner shall also
583 submit to the Office of Vital Statistics a copy of the notice of
584 intended adoption plan and proof of service of the notice on the
585 potential biological father.

586 (c) An unmarried biological father who falls within the
587 exception provided by paragraph (a) may not file a claim of
588 paternity with the registry or a paternity claim under chapter

CS/CS/HB 1163

2012

589 742 after the 30-day mandatory response date to the notice of
590 intended adoption plan has expired. The Office of Vital
591 Statistics may not record a claim of paternity 30 days after
592 service of the notice of intended adoption plan.

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

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

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

617 legal father which are set forth in this chapter.

618 Section 11. Paragraph (b) of subsection (1), subsections
 619 (2), (3), and (4), and paragraph (a) of subsection (8) of
 620 section 63.062, Florida Statutes, are amended to read:

621 63.062 Persons required to consent to adoption; affidavit
 622 of nonpaternity; waiver of venue.—

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

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

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

631 2. The minor is his child by adoption;

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

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

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

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

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

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

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

670 b. Maintained regular communication with the child or with
671 the person or agency having the care or custody of the child,
672 when physically or financially unable to visit the child or when

673 not prevented from doing so by the birth mother or person or
674 authorized agency having lawful custody of the child.

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

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

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

695 1. Filed a notarized claim of paternity form with the
696 Florida Putative Father Registry within the Office of Vital
697 Statistics of the Department of Health, which form shall be
698 maintained in the confidential registry established for that
699 purpose and shall be considered filed when the notice is entered
700 in the registry of notices from unmarried biological fathers.

CS/CS/HB 1163

2012

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

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

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

726 (d)-(e) The petitioner shall file with the court a
727 certificate from the Office of Vital Statistics stating that a
728 diligent search has been made of the Florida Putative Father

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

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

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

CS/CS/HB 1163

2012

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

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

785 of the notice of intended adoption plan:

786 1. The unmarried biological father must:

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

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

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

793 2. The entity whose consent is required must file a
794 verified response setting forth a legal basis for contesting the
795 intended adoption plan, specifically addressing the best
796 interests ~~interest~~ of the child.

797 (b) If the mother identifies a potential unmarried
798 biological father within the timeframes required by the statute,
799 whose location is unknown, the adoption entity shall conduct a
800 diligent search pursuant to s. 63.088. If, upon completion of a
801 diligent search, the potential unmarried biological father's
802 location remains unknown and a search of the Florida Putative
803 Father Registry fails to reveal a match, the adoption entity
804 shall request in the petition for termination of parental rights
805 pending adoption that the court declare the diligent search to
806 be in compliance with s. 63.088, that the adoption entity has no
807 further obligation to provide notice to the potential unmarried
808 biological father, and that the potential unmarried biological
809 father's consent to the adoption is not required.

810 (4) Any person whose consent is required under paragraph
811 (1)(b), or any other man, may execute an irrevocable affidavit
812 of nonpaternity in lieu of a consent under this section and by

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

- 822 (8) A petition to adopt an adult may be granted if:
- 823 (a) Written consent to adoption has been executed by the
 824 adult and the adult's spouse, if any, unless the spouse's
 825 consent is waived by the court for good cause.

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

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

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

CS/CS/HB 1163

2012

841 Section 13. Paragraph (d) of subsection (1), paragraphs
842 (c) and (d) of subsection (3), paragraphs (a), (d), and (e) of
843 subsection (4), and subsections (6) and (7) of section 63.082,
844 Florida Statutes, are amended to read:

845 63.082 Execution of consent to adoption or affidavit of
846 nonpaternity; family social and medical history; revocation
847 ~~withdrawal~~ of consent.—

848 (1)

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

859 (3)

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

865 (d) If any person who is required to consent is
866 unavailable because the person is deceased, the petition to
867 terminate parental rights pending adoption must be accompanied
868 by a certified copy of the death certificate. In an adoption of

CS/CS/HB 1163

2012

869 a stepchild or a relative, the certified copy of the death
870 certificate of the person whose consent is required may ~~must~~ be
871 attached to the petition for adoption if a separate petition for
872 termination of parental rights is not being filed.

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

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

CS/CS/HB 1163

2012

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

901 CONSENT TO ADOPTION

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

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

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

925 ADOPTION.

926

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

944

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

947

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

952

CS/CS/HB 1163

2012

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

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

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

CS/CS/HB 1163

2012

981 department.

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

988 (d)~~(e)~~ Upon a determination by the court that the
989 prospective adoptive parents are properly qualified to adopt the
990 minor child and that the adoption appears to be in the best
991 interests ~~interest~~ of the minor child, the court shall
992 immediately order the transfer of custody of the minor child to
993 the prospective adoptive parents, under the supervision of the
994 adoption entity. The adoption entity shall thereafter provide
995 monthly supervision reports to the department until finalization
996 of the adoption.

997 (e)~~(d)~~ In determining whether the best interests ~~interest~~
998 of the child are ~~is~~ served by transferring the custody of the
999 minor child to the prospective adoptive parent selected by the
1000 parent, the court shall consider the rights of the parent to
1001 determine an appropriate placement for the child, the permanency
1002 offered, the child's bonding with any potential adoptive home
1003 that the child has been residing in, and the importance of
1004 maintaining sibling relationships, if possible.

1005 (7) If a person is seeking to revoke ~~withdraw~~ consent for
1006 a child older than 6 months of age ~~who has been placed with~~
1007 ~~prospective adoptive parents:~~

1008 (a) The person seeking to revoke ~~withdraw~~ consent must, in

CS/CS/HB 1163

2012

1009 accordance with paragraph (4)(c), notify the adoption entity in
1010 writing by certified mail, return receipt requested, within 3
1011 business days after execution of the consent. As used in this
1012 subsection, the term "business day" means any day on which the
1013 United States Postal Service accepts certified mail for
1014 delivery.

1015 (b) Upon receiving timely written notice from a person
1016 whose consent to adoption is required of that person's desire to
1017 revoke ~~withdraw~~ consent, the adoption entity must contact the
1018 prospective adoptive parent to arrange a time certain for the
1019 adoption entity to regain physical custody of the minor, unless,
1020 upon a motion for emergency hearing by the adoption entity, the
1021 court determines in written findings that placement of the minor
1022 with the person who had legal or physical custody of the child
1023 immediately before the child was placed for adoption may
1024 endanger the minor or that the person who desires to revoke
1025 ~~withdraw~~ consent is not required to consent to the adoption, has
1026 been determined to have abandoned the child, or is otherwise
1027 subject to a determination that the person's consent is waived
1028 under this chapter.

1029 (c) If the court finds that the placement may endanger the
1030 minor, the court shall enter an order continuing the placement
1031 of the minor with the prospective adoptive parents pending
1032 further proceedings if they desire continued placement. If the
1033 prospective adoptive parents do not desire continued placement,
1034 the order must include, but need not be limited to, a
1035 determination of whether temporary placement in foster care,
1036 with the person who had legal or physical custody of the child

1037 immediately before placing the child for adoption, or with a
 1038 relative is in the best interests ~~interest~~ of the child and
 1039 whether an investigation by the department is recommended.

1040 (d) If the person revoking ~~withdrawing~~ consent claims to
 1041 be the father of the minor but has not been established to be
 1042 the father by marriage, court order, or scientific testing, the
 1043 court may order scientific paternity testing and reserve ruling
 1044 on removal of the minor until the results of such testing have
 1045 been filed with the court.

1046 (e) The adoption entity must return the minor within 3
 1047 business days after timely and proper notification of the
 1048 revocation ~~withdrawal~~ of consent or after the court determines
 1049 that revocation ~~withdrawal~~ is timely and in accordance with the
 1050 requirements of this chapter ~~valid and binding~~ upon
 1051 consideration of an emergency motion, as filed pursuant to
 1052 paragraph (b), to the physical custody of the person revoking
 1053 ~~withdrawing~~ consent or the person directed by the court. If the
 1054 person seeking to revoke ~~withdraw~~ consent claims to be the
 1055 father of the minor but has not been established to be the
 1056 father by marriage, court order, or scientific testing, the
 1057 adoption entity may return the minor to the care and custody of
 1058 the mother, if she desires such placement and she is not
 1059 otherwise prohibited by law from having custody of the child.

1060 (f) Following the revocation period ~~for withdrawal of~~
 1061 ~~consent~~ described in paragraph (a), ~~or the placement of the~~
 1062 ~~child with the prospective adoptive parents, whichever occurs~~
 1063 ~~later~~, consent may be set aside ~~withdrawn~~ only when the court
 1064 finds that the consent was obtained by fraud or duress.

1065 (g) An affidavit of nonpaternity may be set aside
 1066 ~~withdrawn~~ only if the court finds that the affidavit was
 1067 obtained by fraud or duress.

1068 (h) If the consent of one parent is set aside or revoked
 1069 in accordance with this chapter, any other consents executed by
 1070 the other parent or a third party whose consent is required for
 1071 the adoption of the child may not be used by the parent who
 1072 consent was revoked or set aside to terminate or diminish the
 1073 rights of the other parent or third party whose consent was
 1074 required for the adoption of the child.

1075 Section 14. Subsection (1) and paragraph (a) of subsection
 1076 (2) of section 63.085, Florida Statutes, are amended, and
 1077 paragraph (c) is added to subsection (2) of that section, to
 1078 read:

1079 63.085 Disclosure by adoption entity.—

1080 (1) DISCLOSURE REQUIRED TO PARENTS AND PROSPECTIVE
 1081 ADOPTIVE PARENTS.—Within 14 days after a person seeking to adopt
 1082 a minor or a person seeking to place a minor for adoption
 1083 contacts an adoption entity in person or provides the adoption
 1084 entity with a mailing address, the entity must provide a written
 1085 disclosure statement to that person if the entity agrees or
 1086 continues to work with the person. The adoption entity shall
 1087 also provide the written disclosure to the parent who did not
 1088 initiate contact with the adoption entity within 14 days after
 1089 that parent is identified and located. For purposes of providing
 1090 the written disclosure, a person is considered to be seeking to
 1091 place a minor for adoption if that person has sought information
 1092 or advice from the adoption entity regarding the option of

1093 adoptive placement. The written disclosure statement must be in
 1094 substantially the following form:

1096 ADOPTION DISCLOSURE

1097 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE PROVIDED TO ALL
 1098 PERSONS CONSIDERING ADOPTING A MINOR OR SEEKING TO PLACE A MINOR
 1099 FOR ADOPTION, TO ADVISE THEM OF THE FOLLOWING FACTS REGARDING
 1100 ADOPTION UNDER FLORIDA LAW:

1102 1. The name, address, and telephone number of the adoption
 1103 entity providing this disclosure is:

1104 Name:

1105 Address:

1106 Telephone Number:

1107 2. The adoption entity does not provide legal
 1108 representation or advice to parents or anyone signing a consent
 1109 for adoption or affidavit of nonpaternity, and parents have the
 1110 right to consult with an attorney of their own choosing to
 1111 advise them.

1112 3. With the exception of an adoption by a stepparent or
 1113 relative, a child cannot be placed into a prospective adoptive
 1114 home unless the prospective adoptive parents have received a
 1115 favorable preliminary home study, including criminal and child
 1116 abuse clearances.

1117 4. A valid consent for adoption may not be signed by the
 1118 birth mother until 48 hours after the birth of the child, or the
 1119 day the birth mother is notified, in writing, that she is fit
 1120 for discharge from the licensed hospital or birth center. Any

CS/CS/HB 1163

2012

1121 man may sign a valid consent for adoption at any time after the
1122 birth of the child.

1123 5. A consent for adoption signed before the child attains
1124 the age of 6 months is binding and irrevocable from the moment
1125 it is signed unless it can be proven in court that the consent
1126 was obtained by fraud or duress. A consent for adoption signed
1127 after the child attains the age of 6 months is valid from the
1128 moment it is signed; however, it may be revoked up to 3 business
1129 days after it was signed.

1130 6. A consent for adoption is not valid if the signature of
1131 the person who signed the consent was obtained by fraud or
1132 duress.

1133 7. An unmarried biological father must act immediately in
1134 order to protect his parental rights. Section 63.062, Florida
1135 Statutes, prescribes that any father seeking to establish his
1136 right to consent to the adoption of his child must file a claim
1137 of paternity with the Florida Putative Father Registry
1138 maintained by the Office of Vital Statistics of the Department
1139 of Health by the date a petition to terminate parental rights is
1140 filed with the court, or within 30 days after receiving service
1141 of a Notice of Intended Adoption Plan. If he receives a Notice
1142 of Intended Adoption Plan, he must file a claim of paternity
1143 with the Florida Putative Father Registry, file a parenting plan
1144 with the court, and provide financial support to the mother or
1145 child within 30 days following service. An unmarried biological
1146 father's failure to timely respond to a Notice of Intended
1147 Adoption Plan constitutes an irrevocable legal waiver of any and
1148 all rights that the father may have to the child. A claim of

1149 paternity registration form for the Florida Putative Father
 1150 Registry may be obtained from any local office of the Department
 1151 of Health, Office of Vital Statistics, the Department of
 1152 Children and Families, the Internet websites for these agencies,
 1153 and the offices of the clerks of the Florida circuit courts. The
 1154 claim of paternity form must be submitted to the Office of Vital
 1155 Statistics, Attention: Adoption Unit, P.O. Box 210,
 1156 Jacksonville, FL 32231.

1157 8. There are alternatives to adoption, including foster
 1158 care, relative care, and parenting the child. There may be
 1159 services and sources of financial assistance in the community
 1160 available to parents if they choose to parent the child.

1161 9. A parent has the right to have a witness of his or her
 1162 choice, who is unconnected with the adoption entity or the
 1163 adoptive parents, to be present and witness the signing of the
 1164 consent or affidavit of nonpaternity.

1165 10. A parent 14 years of age or younger must have a
 1166 parent, legal guardian, or court-appointed guardian ad litem to
 1167 assist and advise the parent as to the adoption plan and to
 1168 witness consent.

1169 11. A parent has a right to receive supportive counseling
 1170 from a counselor, social worker, physician, clergy, or attorney.

1171 12. The payment of living or medical expenses by the
 1172 prospective adoptive parents before the birth of the child does
 1173 not, in any way, obligate the parent to sign the consent for
 1174 adoption.

1175

1176 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

CS/CS/HB 1163

2012

1177 (a) At the time that an adoption entity is responsible for
1178 selecting prospective adoptive parents for a born or unborn
1179 child whose parents are seeking to place the child for adoption
1180 or whose rights were terminated pursuant to chapter 39, the
1181 adoption entity must provide the prospective adoptive parents
1182 with information concerning the background of the child to the
1183 extent such information is disclosed to the adoption entity by
1184 the parents, legal custodian, or the department. This subsection
1185 applies only if the adoption entity identifies the prospective
1186 adoptive parents and supervises the ~~physical~~ placement of the
1187 child in the prospective adoptive parents' home. If any
1188 information cannot be disclosed because the records custodian
1189 failed or refused to produce the background information, the
1190 adoption entity has a duty to provide the information if it
1191 becomes available. An individual or entity contacted by an
1192 adoption entity to obtain the background information must
1193 release the requested information to the adoption entity without
1194 the necessity of a subpoena or a court order. In all cases, the
1195 prospective adoptive parents must receive all available
1196 information by the date of the final hearing on the petition for
1197 adoption. The information to be disclosed includes:

1198 1. A family social and medical history form completed
1199 pursuant to s. 63.162(6).

1200 2. The biological mother's medical records documenting her
1201 prenatal care and the birth and delivery of the child.

1202 3. A complete set of the child's medical records
1203 documenting all medical treatment and care since the child's
1204 birth and before placement.

CS/CS/HB 1163

2012

1205 4. All mental health, psychological, and psychiatric
 1206 records, reports, and evaluations concerning the child before
 1207 placement.

1208 5. The child's educational records, including all records
 1209 concerning any special education needs of the child before
 1210 placement.

1211 6. Records documenting all incidents that required the
 1212 department to provide services to the child, including all
 1213 orders of adjudication of dependency or termination of parental
 1214 rights issued pursuant to chapter 39, any case plans drafted to
 1215 address the child's needs, all protective services
 1216 investigations identifying the child as a victim, and all
 1217 guardian ad litem reports filed with the court concerning the
 1218 child.

1219 7. Written information concerning the availability of
 1220 adoption subsidies for the child, if applicable.

1221 (c) If the prospective adoptive parents waive the receipt
 1222 of any of the records described in paragraph (a), a copy of the
 1223 written notification of the waiver to the adoption entity shall
 1224 be filed with the court.

1225 Section 15. Subsection (6) of section 63.087, Florida
 1226 Statutes, is amended to read:

1227 63.087 Proceeding to terminate parental rights pending
 1228 adoption; general provisions.—

1229 (6) ANSWER AND APPEARANCE REQUIRED.—An answer to the
 1230 petition or any pleading requiring an answer must be filed in
 1231 accordance with the Florida Family Law Rules of Procedure.
 1232 Failure to file a written response to the petition constitutes

CS/CS/HB 1163

2012

1233 grounds upon which the court may terminate parental rights.
 1234 Failure to personally appear at the hearing constitutes grounds
 1235 upon which the court may terminate parental rights. Any person
 1236 present at the hearing to terminate parental rights pending
 1237 adoption whose consent to adoption is required under s. 63.062
 1238 must:

1239 (a) Be advised by the court that he or she has a right to
 1240 ask that the hearing be reset for a later date so that the
 1241 person may consult with an attorney; and

1242 (b) Be given an opportunity to admit or deny the
 1243 allegations in the petition.

1244 Section 16. Subsection (4) of section 63.088, Florida
 1245 Statutes, is amended to read:

1246 63.088 Proceeding to terminate parental rights pending
 1247 adoption; notice and service; diligent search.—

1248 (4) REQUIRED INQUIRY.—In proceedings initiated under s.
 1249 63.087, the court shall conduct an inquiry of the person who is
 1250 placing the minor for adoption and of any relative or person
 1251 having legal custody of the minor who is present at the hearing
 1252 and likely to have the following information regarding the
 1253 identity of:

1254 (a) Any man to whom the mother of the minor was married at
 1255 any time when conception of the minor may have occurred or at
 1256 the time of the birth of the minor;

1257 (b) Any man who has filed an affidavit of paternity
 1258 pursuant to s. 382.013(2)(c) before the date that a petition for
 1259 termination of parental rights is filed with the court;

1260 (c) Any man who has adopted the minor;

CS/CS/HB 1163

2012

1261 (d) Any man who has been adjudicated by a court as the
 1262 father of the minor child before the date a petition for
 1263 termination of parental rights is filed with the court; and

1264 (e) Any man whom the mother identified to the adoption
 1265 entity as a potential biological father before the date she
 1266 signed the consent for adoption.

1267
 1268 The information sought under this subsection may be provided to
 1269 the court in the form of a sworn affidavit by a person having
 1270 personal knowledge of the facts, addressing each inquiry
 1271 enumerated in this subsection, except that, if the inquiry
 1272 identifies a father under paragraph (a), paragraph (b), ~~or~~
 1273 paragraph (c), or paragraph (d), the inquiry may not continue
 1274 further. The inquiry required under this subsection may be
 1275 conducted before the birth of the minor.

1276 Section 17. Paragraph (d) of subsection (3), paragraph (b)
 1277 of subsection (4), and subsections (5) and (7) of section
 1278 63.089, Florida Statutes, are amended to read:

1279 63.089 Proceeding to terminate parental rights pending
 1280 adoption; hearing; grounds; dismissal of petition; judgment.—

1281 (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING
 1282 ADOPTION.—The court may enter a judgment terminating parental
 1283 rights pending adoption if the court determines by clear and
 1284 convincing evidence, supported by written findings of fact, that
 1285 each person whose consent to adoption is required under s.
 1286 63.062:

1287 (d) Has been properly served notice of the proceeding in
 1288 accordance with the requirements of this chapter and has failed

1289 to file a written answer or personally appear at the evidentiary
 1290 hearing resulting in the judgment terminating parental rights
 1291 pending adoption;

1292 (4) FINDING OF ABANDONMENT.—A finding of abandonment
 1293 resulting in a termination of parental rights must be based upon
 1294 clear and convincing evidence that a parent or person having
 1295 legal custody has abandoned the child in accordance with the
 1296 definition contained in s. 63.032. A finding of abandonment may
 1297 also be based upon emotional abuse or a refusal to provide
 1298 reasonable financial support, when able, to a birth mother
 1299 during her pregnancy.

1300 (b) The child has been abandoned when the parent of a
 1301 child is incarcerated on or after October 1, 2001, in a federal,
 1302 state, or county correctional institution and:

1303 1. The period of time for which the parent has been or is
 1304 expected to be incarcerated will constitute a significant
 1305 portion of the child's minority. In determining whether the
 1306 period of time is significant, the court shall consider the
 1307 child's age and the child's need for a permanent and stable
 1308 home. The period of time begins on the date that the parent
 1309 enters into incarceration;

1310 2. The incarcerated parent has been determined by a court
 1311 of competent jurisdiction to be a violent career criminal as
 1312 defined in s. 775.084, a habitual violent felony offender as
 1313 defined in s. 775.084, convicted of child abuse as defined in s.
 1314 827.03, or a sexual predator as defined in s. 775.21; has been
 1315 convicted of first degree or second degree murder in violation
 1316 of s. 782.04 or a sexual battery that constitutes a capital,

CS/CS/HB 1163

2012

1317 life, or first degree felony violation of s. 794.011; or has
 1318 been convicted of a substantially similar offense in another
 1319 jurisdiction. As used in this section, the term "substantially
 1320 similar offense" means any offense that is substantially similar
 1321 in elements and penalties to one of those listed in this
 1322 subparagraph, and that is in violation of a law of any other
 1323 jurisdiction, whether that of another state, the District of
 1324 Columbia, the United States or any possession or territory
 1325 thereof, or any foreign jurisdiction; or

1326 3. The court determines by clear and convincing evidence
 1327 that continuing the parental relationship with the incarcerated
 1328 parent would be harmful to the child and, for this reason,
 1329 termination of the parental rights of the incarcerated parent is
 1330 in the best interests ~~interest~~ of the child.

1331 (5) DISMISSAL OF PETITION.—If the court does not find by
 1332 clear and convincing evidence that parental rights of a parent
 1333 should be terminated pending adoption, the court must dismiss
 1334 the petition and that parent's parental rights that were the
 1335 subject of such petition shall remain in full force under the
 1336 law. The order must include written findings in support of the
 1337 dismissal, including findings as to the criteria in subsection
 1338 (4) if rejecting a claim of abandonment.

1339 (a) Parental rights may not be terminated based upon a
 1340 consent that the court finds has been timely revoked ~~withdrawn~~
 1341 under s. 63.082 or a consent to adoption or affidavit of
 1342 nonpaternity that the court finds was obtained by fraud or
 1343 duress.

1344 (b) The court must enter an order based upon written

CS/CS/HB 1163

2012

1345 findings providing for the placement of the minor, but the court
1346 may not proceed to determine custody between competing eligible
1347 parties. The placement of the child should revert to the parent
1348 or guardian who had physical custody of the child at the time of
1349 the placement for adoption unless the court determines upon
1350 clear and convincing evidence that this placement is not in the
1351 best interests of the child or is not an available option for
1352 the child. The court may not change the placement of a child who
1353 has established a bonded relationship with the current caregiver
1354 without providing for a reasonable transition plan consistent
1355 with the best interests of the child. The court may direct the
1356 parties to participate in a reunification or unification plan
1357 with a qualified professional to assist the child in the
1358 transition. The court may order scientific testing to determine
1359 the paternity of the minor only if the court has determined that
1360 the consent of the alleged father would be required, unless all
1361 parties agree that such testing is in the best interests of the
1362 child. The court may not order scientific testing to determine
1363 paternity of an unmarried biological father if the child has a
1364 father as described in s. 63.088(4)(a)-(d) whose rights have not
1365 been previously terminated at any time during which the court
1366 has jurisdiction over the minor. Further proceedings, if any,
1367 regarding the minor must be brought in a separate custody action
1368 under chapter 61, a dependency action under chapter 39, or a
1369 paternity action under chapter 742.

1370 (7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

1371 (a) A motion for relief from a judgment terminating
1372 parental rights must be filed with the court originally entering

CS/CS/HB 1163

2012

1373 the judgment. The motion must be filed within a reasonable time,
1374 but not later than 1 year after the entry of the judgment. An
1375 unmarried biological father does not have standing to seek
1376 relief from a judgment terminating parental rights if the mother
1377 did not identify him to the adoption entity before the date she
1378 signed a consent for adoption or if he was not located because
1379 the mother failed or refused to provide sufficient information
1380 to locate him.

1381 (b) No later than 30 days after the filing of a motion
1382 under this subsection, the court must conduct a preliminary
1383 hearing to determine what contact, if any, shall be permitted
1384 between a parent and the child pending resolution of the motion.
1385 Such contact shall be considered only if it is requested by a
1386 parent who has appeared at the hearing and may not be awarded
1387 unless the parent previously established a bonded relationship
1388 with the child and the parent has pled a legitimate legal basis
1389 and established a prima facie case for setting aside the
1390 judgment terminating parental rights. If the court orders
1391 contact between a parent and child, the order must be issued in
1392 writing as expeditiously as possible and must state with
1393 specificity any provisions regarding contact with persons other
1394 than those with whom the child resides.

1395 (c) At the preliminary hearing, the court, upon the motion
1396 of any party or upon its own motion, may order scientific
1397 testing to determine the paternity of the minor if the person
1398 seeking to set aside the judgment is alleging to be the child's
1399 father and that fact has not previously been determined by
1400 legitimacy or scientific testing. The court may order visitation

CS/CS/HB 1163

2012

1401 with a person for whom scientific testing for paternity has been
1402 ordered and who has previously established a bonded relationship
1403 with the child.

1404 (d) Unless otherwise agreed between the parties or for
1405 good cause shown, the court shall conduct a final hearing on the
1406 motion for relief from judgment within 45 days after the filing
1407 and enter its written order as expeditiously as possible
1408 thereafter.

1409 (e) If the court grants relief from the judgment
1410 terminating parental rights and no new pleading is filed to
1411 terminate parental rights, the placement of the child should
1412 revert to the parent or guardian who had physical custody of the
1413 child at the time of the original placement for adoption unless
1414 the court determines upon clear and convincing evidence that
1415 this placement is not in the best interests of the child or is
1416 not an available option for the child. The court may not change
1417 the placement of a child who has established a bonded
1418 relationship with the current caregiver without providing for a
1419 reasonable transition plan consistent with the best interests of
1420 the child. The court may direct the parties to participate in a
1421 reunification or unification plan with a qualified professional
1422 to assist the child in the transition. The court may not direct
1423 the placement of a child with a person other than the adoptive
1424 parents without first obtaining a favorable home study of that
1425 person and any other persons residing in the proposed home and
1426 shall take whatever additional steps are necessary and
1427 appropriate for the physical and emotional protection of the
1428 child.

1429 Section 18. Subsection (3) of section 63.092, Florida
1430 Statutes, is amended to read:

1431 63.092 Report to the court of intended placement by an
1432 adoption entity; at-risk placement; preliminary study.—

1433 (3) PRELIMINARY HOME STUDY.—Before placing the minor in
1434 the intended adoptive home, a preliminary home study must be
1435 performed by a licensed child-placing agency, a child-caring
1436 agency registered under s. 409.176, a licensed professional, or
1437 agency described in s. 61.20(2), unless the adoptee is an adult
1438 or the petitioner is a stepparent or a relative. If the adoptee
1439 is an adult or the petitioner is a stepparent or a relative, a
1440 preliminary home study may be required by the court for good
1441 cause shown. The department is required to perform the
1442 preliminary home study only if there is no licensed child-
1443 placing agency, child-caring agency registered under s. 409.176,
1444 licensed professional, or agency described in s. 61.20(2), in
1445 the county where the prospective adoptive parents reside. The
1446 preliminary home study must be made to determine the suitability
1447 of the intended adoptive parents and may be completed prior to
1448 identification of a prospective adoptive minor. A favorable
1449 preliminary home study is valid for 1 year after the date of its
1450 completion. Upon its completion, a signed copy of the home study
1451 must be provided to the intended adoptive parents who were the
1452 subject of the home study. A minor may not be placed in an
1453 intended adoptive home before a favorable preliminary home study
1454 is completed unless the adoptive home is also a licensed foster
1455 home under s. 409.175. The preliminary home study must include,
1456 at a minimum:

1457 (a) An interview with the intended adoptive parents;
 1458 (b) Records checks of the department's central abuse
 1459 registry and criminal records correspondence checks under s.
 1460 39.0138 through the Department of Law Enforcement on the
 1461 intended adoptive parents;
 1462 (c) An assessment of the physical environment of the home;
 1463 (d) A determination of the financial security of the
 1464 intended adoptive parents;
 1465 (e) Documentation of counseling and education of the
 1466 intended adoptive parents on adoptive parenting;
 1467 (f) Documentation that information on adoption and the
 1468 adoption process has been provided to the intended adoptive
 1469 parents;
 1470 (g) Documentation that information on support services
 1471 available in the community has been provided to the intended
 1472 adoptive parents; and
 1473 (h) A copy of each signed acknowledgment of receipt of
 1474 disclosure required by s. 63.085.
 1475
 1476 If the preliminary home study is favorable, a minor may be
 1477 placed in the home pending entry of the judgment of adoption. A
 1478 minor may not be placed in the home if the preliminary home
 1479 study is unfavorable. If the preliminary home study is
 1480 unfavorable, the adoption entity may, within 20 days after
 1481 receipt of a copy of the written recommendation, petition the
 1482 court to determine the suitability of the intended adoptive
 1483 home. A determination as to suitability under this subsection
 1484 does not act as a presumption of suitability at the final

1485 hearing. In determining the suitability of the intended adoptive
1486 home, the court must consider the totality of the circumstances
1487 in the home. A ~~No~~ minor may not be placed in a home in which
1488 there resides any person determined by the court to be a sexual
1489 predator as defined in s. 775.21 or to have been convicted of an
1490 offense listed in s. 63.089(4)(b)2.

1491 Section 19. Subsection (7) is added to section 63.097,
1492 Florida Statutes, to read:

1493 63.097 Fees.—

1494 (7) In determining reasonable attorney fees, courts shall
1495 use the following criteria:

1496 (a) The time and labor required, the novelty and
1497 difficulty of the question involved, and the skill requisite to
1498 perform the legal service properly.

1499 (b) The likelihood, if apparent to the client, that the
1500 acceptance of the particular employment will preclude other
1501 employment by the attorney.

1502 (c) The fee customarily charged in the locality for
1503 similar legal services.

1504 (d) The amount involved in the subject matter of the
1505 representation, the responsibility involved in the
1506 representation, and the results obtained.

1507 (e) The time limitations imposed by the client or by the
1508 circumstances and, as between attorney and client, any
1509 additional or special time demands or requests of the attorney
1510 by the client.

1511 (f) The nature and length of the professional relationship
1512 with the client.

CS/CS/HB 1163

2012

1513 (g) The experience, reputation, diligence, and ability of
 1514 the attorney or attorneys performing the service and the skill,
 1515 expertise, or efficiency of effort reflected in the actual
 1516 providing of such services.

1517 (h) Whether the fee is fixed or contingent.

1518 Section 20. Section 63.152, Florida Statutes, is amended
 1519 to read:

1520 63.152 Application for new birth record.—Within 30 days
 1521 after entry of a judgment of adoption, the clerk of the court or
 1522 the adoption entity shall transmit a certified statement of the
 1523 entry to the state registrar of vital statistics on a form
 1524 provided by the registrar. A new birth record containing the
 1525 necessary information supplied by the certificate shall be
 1526 issued by the registrar on application of the adopting parents
 1527 or the adopted person.

1528 Section 21. Subsection (7) of section 63.162, Florida
 1529 Statutes, is amended to read:

1530 63.162 Hearings and records in adoption proceedings;
 1531 confidential nature.—

1532 (7) The court may, upon petition of an adult adoptee or
 1533 birth parent, for good cause shown, appoint an intermediary or a
 1534 licensed child-placing agency to contact a birth parent or adult
 1535 adoptee, as applicable, who has not registered with the adoption
 1536 registry pursuant to s. 63.165 and advise both ~~them~~ of the
 1537 availability of the intermediary or agency and that the birth
 1538 parent or adult adoptee, as applicable, wishes to establish
 1539 contact ~~same~~.

1540 Section 22. Paragraph (c) of subsection (2) of section

CS/CS/HB 1163

2012

1541 63.167, Florida Statutes, is amended to read:

1542 63.167 State adoption information center.—

1543 (2) The functions of the state adoption information center
1544 shall include:

1545 (c) Operating a toll-free telephone number to provide
1546 information and referral services. The state adoption
1547 information center shall provide contact information for all
1548 adoption entities in the caller's county or, if no adoption
1549 entities are located in the caller's county, the number of the
1550 nearest adoption entity when contacted for a referral to make an
1551 adoption plan and shall rotate the order in which the names of
1552 adoption entities are provided to callers.

1553 Section 23. Paragraph (g) of subsection (1) and
1554 subsections (2) and (8) of section 63.212, Florida Statutes, are
1555 amended to read:

1556 63.212 Prohibited acts; penalties for violation.—

1557 (1) It is unlawful for any person:

1558 (g) Except an adoption entity, to advertise or offer to
1559 the public, in any way, by any medium whatever that a minor is
1560 available for adoption or that a minor is sought for adoption;
1561 and, further, it is unlawful for any person to publish or
1562 broadcast any such advertisement or assist an unlicensed person
1563 or entity in publishing or broadcasting any such advertisement
1564 without including a Florida license number of the agency or
1565 attorney placing the advertisement.

1566 1. Only a person who is an attorney licensed to practice
1567 law in this state or an adoption entity licensed under the laws
1568 of this state may place a paid advertisement or paid listing of

1569 the person's telephone number, on the person's own behalf, in a
 1570 telephone directory that:

1571 a. A child is offered or wanted for adoption; or
 1572 b. The person is able to place, locate, or receive a child
 1573 for adoption.

1574 2. A person who publishes a telephone directory that is
 1575 distributed in this state:

1576 a. Shall include, at the beginning of any classified
 1577 heading for adoption and adoption services, a statement that
 1578 informs directory users that only attorneys licensed to practice
 1579 law in this state and licensed adoption entities may legally
 1580 provide adoption services under state law.

1581 b. May publish an advertisement described in subparagraph
 1582 1. in the telephone directory only if the advertisement contains
 1583 the following:

1584 (I) For an attorney licensed to practice law in this
 1585 state, the person's Florida Bar number.

1586 (II) For a child placing agency licensed under the laws of
 1587 this state, the number on the person's adoption entity license.

1588 (2) Any person who is a birth mother, or a woman who holds
 1589 herself out to be a birth mother, who is interested in making an
 1590 adoption plan and who knowingly or intentionally benefits from
 1591 the payment of adoption-related expenses in connection with that
 1592 adoption plan commits adoption deception if:

1593 (a) The person knows or should have known that the person
 1594 is not pregnant at the time the sums were requested or received;

1595 (b) The person accepts living expenses assistance from a
 1596 prospective adoptive parent or adoption entity without

CS/CS/HB 1163

2012

1597 disclosing that she is receiving living expenses assistance from
 1598 another prospective adoptive parent or adoption entity at the
 1599 same time in an effort to adopt the same child; or

1600 (c) The person knowingly makes false representations to
 1601 induce the payment of living expenses and does not intend to
 1602 make an adoptive placement. It is unlawful for:

1603 ~~(a) Any person or adoption entity under this chapter to:~~

1604 ~~1. Knowingly provide false information; or~~

1605 ~~2. Knowingly withhold material information.~~

1606 ~~(b) A parent, with the intent to defraud, to accept~~
 1607 ~~benefits related to the same pregnancy from more than one~~
 1608 ~~adoption entity without disclosing that fact to each entity.~~

1609
 1610 Any person who willfully commits adoption deception ~~violates any~~
 1611 ~~provision of this subsection~~ commits a misdemeanor of the second
 1612 degree, punishable as provided in s. 775.082 or s. 775.083, if
 1613 the sums received by the birth mother or woman holding herself
 1614 out to be a birth mother do not exceed \$300, and a felony of the
 1615 third degree, punishable as provided in s. 775.082, s. 775.083,
 1616 or s. 775.084, if the sums received by the birth mother or woman
 1617 holding herself out to be a birth mother exceed \$300. In
 1618 addition, the person is liable for damages caused by such acts
 1619 or omissions, including reasonable attorney ~~attorney's~~ fees and
 1620 costs incurred by the adoption entity or the prospective
 1621 adoptive parent. Damages may be awarded through restitution in
 1622 any related criminal prosecution or by filing a separate civil
 1623 action.

1624 (8) Unless otherwise indicated, a person who willfully and

1625 with criminal intent violates any provision of this section,
 1626 excluding paragraph (1)(g), commits a felony of the third
 1627 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1628 775.084. A person who willfully and with criminal intent
 1629 violates paragraph (1)(g) commits a misdemeanor of the second
 1630 degree, punishable as provided in s. 775.083; and each day of
 1631 continuing violation shall be considered a separate offense. In
 1632 addition, any person who knowingly publishes or assists with the
 1633 publication of any advertisement or other publication which
 1634 violates the requirements of paragraph (1)(g) commits a
 1635 misdemeanor of the second degree, punishable as provided in s.
 1636 775.083, and may be required to pay a fine of up to \$150 per day
 1637 for each day of continuing violation.

1638 Section 24. Paragraph (b) of subsection (1), paragraphs
 1639 (a) and (e) of subsection (2), and paragraphs (b), (h), and (i)
 1640 of subsection (6) of section 63.213, Florida Statutes, are
 1641 amended to read:

1642 63.213 Preplanned adoption agreement.—

1643 (1) Individuals may enter into a preplanned adoption
 1644 arrangement as specified in this section, but such arrangement
 1645 may not in any way:

1646 (b) Constitute consent of a mother to place her biological
 1647 child for adoption until 48 hours after the following birth of
 1648 the child and unless the court making the custody determination
 1649 or approving the adoption determines that the mother was aware
 1650 of her right to rescind within the 48-hour period after the
 1651 following birth of the child but chose not to rescind such
 1652 consent. The volunteer mother's right to rescind her consent in

1653 a preplanned adoption applies only when the child is genetically
 1654 related to her.

1655 (2) A preplanned adoption agreement must include, but need
 1656 not be limited to, the following terms:

1657 (a) That the volunteer mother agrees to become pregnant by
 1658 the fertility technique specified in the agreement, to bear the
 1659 child, and to terminate any parental rights and responsibilities
 1660 to the child she might have through a written consent executed
 1661 at the same time as the preplanned adoption agreement, subject
 1662 to a right of rescission by the volunteer mother any time within
 1663 48 hours after the birth of the child, if the volunteer mother
 1664 is genetically related to the child.

1665 (e) That the intended father and intended mother
 1666 acknowledge that they may not receive custody or the parental
 1667 rights under the agreement if the volunteer mother terminates
 1668 the agreement or if the volunteer mother rescinds her consent to
 1669 place her child for adoption within 48 hours after the birth of
 1670 the child, if the volunteer mother is genetically related to the
 1671 child.

1672 (6) As used in this section, the term:

1673 (b) "Child" means the child or children conceived by means
 1674 of a fertility technique ~~an insemination~~ that is part of a
 1675 preplanned adoption arrangement.

1676 (h) "Preplanned adoption arrangement" means the
 1677 arrangement through which the parties enter into an agreement
 1678 for the volunteer mother to bear the child, for payment by the
 1679 intended father and intended mother of the expenses allowed by
 1680 this section, for the intended father and intended mother to

CS/CS/HB 1163

2012

1681 assert full parental rights and responsibilities to the child if
1682 consent to adoption is not rescinded after birth by a the
1683 volunteer mother who is genetically related to the child, and
1684 for the volunteer mother to terminate, subject to any a right of
1685 rescission, all her parental rights and responsibilities to the
1686 child in favor of the intended father and intended mother.

1687 (i) "Volunteer mother" means a female at least 18 years of
1688 age who voluntarily agrees, subject to a right of rescission if
1689 it is her biological child, that if she should become pregnant
1690 pursuant to a preplanned adoption arrangement, she will
1691 terminate her parental rights and responsibilities to the child
1692 in favor of the intended father and intended mother.

1693 Section 25. Section 63.222, Florida Statutes, is amended
1694 to read:

1695 63.222 Effect on prior adoption proceedings.—Any adoption
1696 made before July 1, 2012, ~~is the effective date of this act~~
1697 ~~shall be~~ valid, and any proceedings pending on that the
1698 ~~effective date and any subsequent amendments thereto of this act~~
1699 are not affected thereby unless the amendment is designated as a
1700 remedial provision.

1701 Section 26. Section 63.2325, Florida Statutes, is amended
1702 to read:

1703 63.2325 Conditions for invalidation ~~revocation~~ of a
1704 consent to adoption or affidavit of nonpaternity.—
1705 Notwithstanding the requirements of this chapter, a failure to
1706 meet any of those requirements does not constitute grounds for
1707 invalidation ~~revocation~~ of a consent to adoption or revocation
1708 ~~withdrawal~~ of an affidavit of nonpaternity unless the extent and

CS/CS/HB 1163

2012

1709 | circumstances of such a failure result in a material failure of
1710 | fundamental fairness in the administration of due process, or
1711 | the failure constitutes or contributes to fraud or duress in
1712 | obtaining a consent to adoption or affidavit of nonpaternity.

1713 | Section 27. This act shall take effect July 1, 2012.