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CHAPTER 2012-81

Committee Substitute for Committee Substitute for
Committee Substitute for House Bill No. 1163

An act relating to adoption; amending s. 39.802, F.S.; requiring the Department of Children and Family Services to inform the parents of a child of the availability of private placement of the child with an adoption entity in certain circumstances; amending s. 63.022, F.S.; revising legislative intent to delete reference to reporting requirements for placements of minors and exceptions; amending s. 63.032, F.S.; revising definitions; amending s. 63.037, F.S.; exempting adoption proceedings initiated under chapter 39, F.S., from a requirement for a search of the Florida Putative Father Registry; amending s. 63.039, F.S.; providing that all adoptions of minor children require the use of an adoption entity that will assume the responsibilities provided in specified provisions; providing an exception; amending s. 63.0423, F.S.; revising procedures with respect to surrendered infants; providing that an infant who tests positive for illegal drugs, narcotic prescription drugs, alcohol, or other substances, but shows no other signs of child abuse or neglect, shall be placed in the custody of a licensed child-placing agency; providing that a specified reporting requirement is not superseded; providing that when the Department of Children and Family Services is contacted regarding a surrendered infant who does not appear to have been the victim of actual or suspected child abuse or neglect, it shall provide instruction to contact a licensed child-placing agency and may not take custody of the infant; providing an exception; revising provisions relating to scientific testing to determine the paternity or maternity of a minor; amending s. 63.0427, F.S.; prohibiting a court from increasing contact between an adopted child and siblings, birth parents, or other relatives without the consent of the adoptive parent or parents; amending s. 63.052, F.S.; deleting a requirement that a minor be permanently committed to an adoption entity in order for the entity to be guardian of the person of the minor; limiting the circumstances in which an intermediary may remove a child; providing that an intermediary does not become responsible for a minor child's medical bills that were incurred before taking physical custody of the child; providing additional placement options for a minor surrendered to an adoption entity for subsequent adoption when a suitable prospective adoptive home is not available; amending s. 63.053, F.S.; requiring that an unmarried biological father strictly comply with specified provisions in order to protect his interests; amending s. 63.054, F.S.; authorizing submission of an alternative document to the Office of Vital Statistics by the petitioner in each proceeding for termination of parental rights; providing that by filing a claim of paternity form the registrant expressly consents to paying for DNA testing; requiring that an alternative address designated by a registrant be a physical address; providing that the filing of a claim of paternity with the Florida Putative Father Registry does not relieve a person from compliance with specified requirements; amending s.

63.062, F.S.; revising requirements for when a minor's father must be served prior to termination of parental rights; requiring that an unmarried biological father comply with specified requirements in order for his consent to be required for adoption; revising such requirements; providing that the mere fact that a father expresses a desire to fulfill his responsibilities towards his child which is unsupported by acts evidencing this intent does not meet the requirements; providing for the sufficiency of an affidavit of nonpaternity; providing an exception to a condition to a petition to adopt an adult; amending s. 63.063, F.S.; conforming terminology; amending s. 63.082, F.S.; requiring an affidavit of diligent search to be filed whenever a person who is required to consent is unavailable because the person cannot be located; providing that in an adoption of a stepchild or a relative, a certified copy of the death certificate of the person whose consent is required may be attached to the petition for adoption if a separate petition for termination of parental rights is not being filed; authorizing the execution of an affidavit of nonpaternity before the birth of a minor in preplanned adoptions; revising language of a consent to adoption; providing that a home study provided by the adoption entity shall be deemed to be sufficient except in certain circumstances; providing for a hearing if an adoption entity moves to intervene in a dependency case; requiring the court to provide information to prospective adoptive parents regarding parent training classes in the community upon determining the child dependent; requiring the department to file an acknowledgement of receipt of information; requiring the adoption entity to provide updates to the court at specified intervals; requiring the court to advise a biological parent who is a party to a dependency proceeding of the right to participate in a private adoption; revising language concerning seeking to revoke consent to an adoption of a child older than 6 months of age; providing that if the consent of one parent is set aside or revoked, any other consents executed by the other parent or a third party whose consent is required for the adoption of the child may not be used by the parent who consent was revoked or set aside to terminate or diminish the rights of the other parent or third party; amending s. 63.085, F.S.; revising language of an adoption disclosure statement; requiring that a copy of a waiver by prospective adoptive parents of receipt of certain records must be filed with the court; amending s. 63.087, F.S.; specifying that a failure to personally appear at a proceeding to terminate parental rights constitutes grounds for termination; amending s. 63.088, F.S.; providing that in a termination of parental rights proceeding if a required inquiry that identifies a father who has been adjudicated by a court as the father of the minor child before the date a petition for termination of parental rights is filed the inquiry must terminate at that point; amending s. 63.089, F.S.; specifying that it is a failure to personally appear that provides grounds for termination of parental rights in certain circumstances; providing additional grounds upon which a finding of abandonment may be made; revising provisions relating to dismissal of petitions to terminate parental rights; providing that contact between a parent seeking relief from a judgment terminating parental rights and a child may be awarded only in certain circumstances; providing for placement of a child in the event that a court grants relief

from a judgment terminating parental rights and no new pleading is filed to terminate parental rights; amending s. 63.092, F.S.; requiring that a signed copy of the home study must be provided to the intended adoptive parents who were the subject of the study; amending s. 63.152, F.S.; authorizing an adoption entity to transmit a certified statement of the entry of a judgment of adoption to the state registrar of vital statistics; amending s. 63.162, F.S.; authorizing a birth parent to petition that court to appoint an intermediary or a licensed child-placing agency to contact an adult adoptee and advise both of the availability of the adoption registry and that the birth parent wishes to establish contact; amending s. 63.167, F.S.; requiring that the state adoption center provide contact information for all adoption entities in a caller's county or, if no adoption entities are located in the caller's county, the number of the nearest adoption entity when contacted for a referral to make an adoption plan; amending s. 63.202, F.S.; revising terminology in provisions relating to licensing by the department; amending s. 63.212, F.S.; restricting who may place a paid advertisement or paid listing of the person's telephone number offering certain adoption services; requiring of publishers of telephone directories to include certain statements at the beginning of any classified heading for adoption and adoption services; providing requirements for such advertisements; providing criminal penalties for violations; prohibiting the offense of adoption deception by a person who is a birth mother or a woman who holds herself out to be a birth mother; providing criminal penalties; providing liability by violators for certain damages; amending s. 63.213, F.S.; providing that a preplanned adoption arrangement does not constitute consent of a mother to place her biological child for adoption until 48 hours following birth; providing that a volunteer mother's right to rescind her consent in a preplanned adoption applies only when the child is genetically related to her; revising the definitions of the terms "child," "preplanned adoption arrangement," and "volunteer mother"; amending s. 63.222, F.S.; providing that provisions designated as remedial may apply to any proceedings pending on the effective date of the provisions; amending s. 63.2325, F.S.; revising terminology relating to revocation of consent to adoption; providing an effective date.

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

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

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

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

- (a) That at least one of the grounds listed in s. 39.806 has been met.
- (b) That the parents of the child were informed of their right to counsel at all hearings that they attended and that a dispositional order adjudicating

the child dependent was entered in any prior dependency proceeding relied upon in offering a parent a case plan as described in s. 39.806.

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

(d) That the parents of the child will be informed of the availability of private placement of the child with an adoption entity, as defined in s. 63.032.

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

63.022 Legislative intent.—

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

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

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

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

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

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

(3) “Adoption entity” means the department, ~~an agency~~, a child-caring agency registered under s. 409.176, an intermediary, a Florida child-placing agency licensed under s. 63.202, or a child-placing agency licensed in another state which is licensed qualified by the department to place children in the State of Florida.

(12) “Parent” means a woman who gives birth to a child and who is not a gestational surrogate as defined in s. 742.13 or a man whose consent to the

adoption of the child would be required under s. 63.062(1). If a child has been legally adopted, the term “parent” means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated or an alleged or prospective parent.

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

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

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

63.037 Proceedings applicable to cases resulting from a termination of parental rights under chapter 39.—A case in which a minor becomes available for adoption after the parental rights of each parent have been terminated by a judgment entered pursuant to chapter 39 shall be governed by s. 39.812 and this chapter. Adoption proceedings initiated under chapter 39 are exempt from the following provisions of this chapter: requirement for search of the Florida Putative Father Registry provided in s. 63.054(7), if a search was previously completed and documentation of the search is contained in the case file; disclosure requirements for the adoption entity provided in s. 63.085(1); general provisions governing termination of parental rights pending adoption provided in s. 63.087; notice and service provisions governing termination of parental rights pending adoption provided in s. 63.088; and procedures for terminating parental rights pending adoption provided in s. 63.089.

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

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

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

Section 6. Subsections (1), (2), (4), (7), (8), and (9) of section 63.0423, Florida Statutes, are amended to read:

63.0423 Procedures with respect to surrendered infants.—

(1) Upon entry of final judgment terminating parental rights, a licensed child-placing agency that takes physical custody of an infant surrendered at

a hospital, emergency medical services station, or fire station pursuant to s. 383.50 assumes shall ~~assume~~ responsibility for the all medical costs and all other costs associated with the emergency services and care of the surrendered infant from the time the licensed child-placing agency takes physical custody of the surrendered infant.

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

(4) The parent who surrenders the infant in accordance with s. 383.50 is presumed to have consented to termination of parental rights, and express consent is not required. Except when there is actual or suspected child abuse or neglect, the licensed child-placing agency shall not attempt to pursue, search for, or notify that parent as provided in s. 63.088 and chapter 49. For purposes of s. 383.50 and this section, an infant who tests positive for illegal drugs, narcotic prescription drugs, alcohol, or other substances, but shows no other signs of child abuse or neglect, shall be placed in the custody of a licensed child-placing agency. Such a placement does not eliminate the reporting requirement under s. 383.50(7). When the department is contacted regarding an infant properly surrendered under this section and s. 383.50, the department shall provide instruction to contact a licensed child-placing agency and may not take custody of the infant unless reasonable efforts to contact a licensed child-placing agency to accept the infant have not been successful.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

63.052 Guardians designated; proof of commitment.—

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

(2) For minors who have been voluntarily surrendered to an intermediary through an execution of a consent to adoption, the intermediary shall be responsible for the minor until the time a court orders preliminary approval of placement of the minor in the prospective adoptive home, after which time the prospective adoptive parents shall become guardians pending finalization of adoption, subject to the intermediary's right and responsibility to remove the child from the prospective adoptive home if the removal is deemed by the intermediary to be in the best interests interest of the child. The intermediary may not remove the child without a court order unless the child is in danger of imminent harm. The intermediary does not become responsible for the minor child's medical bills that were incurred before taking physical custody of the child after the execution of adoption consents. Prior to the court's entry of an order granting preliminary approval of the placement, the intermediary shall have the responsibility and authority to provide for the needs and welfare of the minor. A No minor may not shall be placed in a prospective adoptive home until that home has received a favorable preliminary home study, as provided in s. 63.092, completed and approved within 1 year before such placement in the prospective home. The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.

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

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

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

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

(2) The Legislature finds that the interests of the state, the mother, the child, and the adoptive parents described in this chapter outweigh the interest of an unmarried biological father who does not take action in a timely manner to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter. An unmarried biological

father has the primary responsibility to protect his rights and is presumed to know that his child may be adopted without his consent unless he strictly complies with the provisions of this chapter and demonstrates a prompt and full commitment to his parental responsibilities.

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

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

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

(1) In order to preserve the right to notice and consent to an adoption under this chapter, an unmarried biological father must, as the “registrant,” file a notarized claim of paternity form with the Florida Putative Father Registry maintained by the Office of Vital Statistics of the Department of Health which includes confirmation of his willingness and intent to support the child for whom paternity is claimed in accordance with state law. The claim of paternity may be filed at any time before the child’s birth, but may not be filed after the date a petition is filed for termination of parental rights. In each proceeding for termination of parental rights, the petitioner must submit to the Office of Vital Statistics a copy of the petition for termination of parental rights or a document executed by the clerk of the court showing the style of the case, the names of the persons whose rights are sought to be terminated, and the date and time of the filing of the petition. The Office of Vital Statistics may not record a claim of paternity after the date a petition for termination of parental rights is filed. The failure of an unmarried biological father to file a claim of paternity with the registry before the date a petition for termination of parental rights is filed also bars him from filing a paternity claim under chapter 742.

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

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

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

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

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

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

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

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

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

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

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

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

(b) The father of the minor, if:

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

2. The minor is his child by adoption;

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

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

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

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

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

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

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

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

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

~~2.3.~~ An unmarried biological father who openly lived with the child for at least 6 months within the 1-year period following the birth of the child and immediately preceding placement of the child with adoptive parents and who openly held himself out to be the father of the child during that period shall

be deemed to have developed a substantial relationship with the child and to have otherwise met the requirements of this paragraph.

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

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

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

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

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

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

(e)(d) An unmarried biological father who does not comply with each of the conditions provided in this subsection is deemed to have waived and surrendered any rights in relation to the child, including the right to notice of

any judicial proceeding in connection with the adoption of the child, and his consent to the adoption of the child is not required.

(3) Pursuant to chapter 48, an adoption entity shall serve a notice of intended adoption plan upon any known and locatable unmarried biological father who is identified to the adoption entity by the mother by the date she signs her consent for adoption if the child is 6 months of age or less at the time the consent is executed ~~or who is identified by a diligent search of the Florida Putative Father Registry, or upon an entity whose consent is required.~~ Service of the notice of intended adoption plan is not required ~~mandatory~~ when the unmarried biological father signs a consent for adoption or an affidavit of nonpaternity or when the child is more than 6 months of age at the time of the execution of the consent by the mother. The notice may be served at any time before the child's birth or before placing the child in the adoptive home. The recipient of the notice may waive service of process by executing a waiver and acknowledging receipt of the plan. The notice of intended adoption plan must specifically state that if the unmarried biological father desires to contest the adoption plan he must, within 30 days after service, file with the court a verified response that contains a pledge of commitment to the child in substantial compliance with subparagraph (2)(b)2. and a claim of paternity form with the Office of Vital Statistics, and must provide the adoption entity with a copy of the verified response filed with the court and the claim of paternity form filed with the Office of Vital Statistics. The notice must also include instructions for submitting a claim of paternity form to the Office of Vital Statistics and the address to which the claim must be sent. If the party served with the notice of intended adoption plan is an entity whose consent is required, the notice must specifically state that the entity must file, within 30 days after service, a verified response setting forth a legal basis for contesting the intended adoption plan, specifically addressing the best interests ~~interest~~ of the child.

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

1. The unmarried biological father must:

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

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

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

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

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

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

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

(a) Written consent to adoption has been executed by the adult and the adult's spouse, if any, unless the spouse's consent is waived by the court for good cause.

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

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

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

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

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

(1)

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

(3)

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

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

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

(d) The consent to adoption or the affidavit of nonpaternity must be signed in the presence of two witnesses and be acknowledged before a notary public who is not signing as one of the witnesses. The notary public must legibly note on the consent or the affidavit the date and time of execution. The witnesses' names must be typed or printed underneath their signatures. The witnesses' home or business addresses must be included. The person who signs the consent or the affidavit has the right to have at least one of the witnesses be an individual who does not have an employment, professional, or personal relationship with the adoption entity or the prospective adoptive parents. The adoption entity must give reasonable advance notice to the person signing the consent or affidavit of the right to select a witness of his or her own choosing. The person who signs the consent or affidavit must acknowledge in writing on the consent or affidavit that such notice was given and indicate the witness, if any, who was selected by the person signing the

consent or affidavit. The adoption entity must include its name, address, and telephone number on the consent to adoption or affidavit of nonpaternity.

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

CONSENT TO ADOPTION

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

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

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

IF YOU DO SIGN THIS CONSENT, YOU ARE GIVING UP ALL RIGHTS TO YOUR CHILD. YOUR CONSENT IS VALID, BINDING, AND IRREVOCABLE EXCEPT UNDER SPECIFIC LEGAL CIRCUMSTANCES. IF YOU ARE GIVING UP YOUR RIGHTS TO A NEWBORN CHILD WHO IS TO BE IMMEDIATELY PLACED FOR ADOPTION UPON THE CHILD'S RELEASE FROM A LICENSED HOSPITAL OR BIRTH CENTER FOLLOWING BIRTH, A WAITING PERIOD WILL BE IMPOSED UPON THE BIRTH MOTHER BEFORE SHE MAY SIGN THE CONSENT FOR ADOPTION. A BIRTH MOTHER MUST WAIT 48 HOURS FROM THE TIME OF BIRTH, OR UNTIL THE DAY THE BIRTH MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON HER PATIENT CHART OR IN RELEASE PAPERS, THAT SHE IS FIT TO BE RELEASED FROM A LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS SOONER, BEFORE THE CONSENT FOR ADOPTION MAY BE EXECUTED. ANY MAN MAY EXECUTE A

CONSENT AT ANY TIME AFTER THE BIRTH OF THE CHILD. ONCE YOU HAVE SIGNED THE CONSENT, IT IS VALID, BINDING, AND IRREVOCABLE AND CANNOT BE INVALIDATED WITHDRAWN UNLESS A COURT FINDS THAT IT WAS OBTAINED BY FRAUD OR DURESS.

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

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

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

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

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

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

(d)(e) Upon a determination by the court that the prospective adoptive parents are properly qualified to adopt the minor child and that the adoption appears to be in the best interests interest of the minor child, the court shall immediately order the transfer of custody of the minor child to the prospective adoptive parents, under the supervision of the adoption entity. The adoption entity shall thereafter provide monthly supervision reports to the department until finalization of the adoption. If the child has been determined to be dependent by the court, the department shall provide information to the prospective adoptive parents at the time they receive placement of the dependent child regarding approved parent training classes available within the community. The department shall file with the court an acknowledgement of the parent's receipt of the information regarding approved parent training classes available within the community.

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

(f) The adoption entity shall be responsible for keeping the dependency court informed of the status of the adoption proceedings at least every 90 days from the date of the order changing placement of the child until the date of finalization of the adoption.

(g) In all dependency proceedings, after it is determined that reunification is not a viable alternative and prior to the filing of a petition for termination of parental rights, the court shall advise the biological parent who is a party to the case of the right to participate in a private adoption plan.

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

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

(b) Upon receiving timely written notice from a person whose consent to adoption is required of that person's desire to revoke ~~withdraw~~ consent, the adoption entity must contact the prospective adoptive parent to arrange a time certain for the adoption entity to regain physical custody of the minor, unless, upon a motion for emergency hearing by the adoption entity, the court determines in written findings that placement of the minor with the person who had legal or physical custody of the child immediately before the child was placed for adoption may endanger the minor or that the person who desires to revoke ~~withdraw~~ consent is not required to consent to the adoption,

has been determined to have abandoned the child, or is otherwise subject to a determination that the person's consent is waived under this chapter.

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

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

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

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

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

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

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

63.085 Disclosure by adoption entity.—

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

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

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

Name:

Address:

Telephone Number:

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

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

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

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

is valid from the moment it is signed; however, it may be revoked up to 3 business days after it was signed.

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

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

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

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

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

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

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

(2) DISCLOSURE TO ADOPTIVE PARENTS.—

(a) At the time that an adoption entity is responsible for selecting prospective adoptive parents for a born or unborn child whose parents are seeking to place the child for adoption or whose rights were terminated pursuant to chapter 39, the adoption entity must provide the prospective adoptive parents with information concerning the background of the child to

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

1. A family social and medical history form completed pursuant to s. 63.162(6).
2. The biological mother's medical records documenting her prenatal care and the birth and delivery of the child.
3. A complete set of the child's medical records documenting all medical treatment and care since the child's birth and before placement.
4. All mental health, psychological, and psychiatric records, reports, and evaluations concerning the child before placement.
5. The child's educational records, including all records concerning any special education needs of the child before placement.
6. Records documenting all incidents that required the department to provide services to the child, including all orders of adjudication of dependency or termination of parental rights issued pursuant to chapter 39, any case plans drafted to address the child's needs, all protective services investigations identifying the child as a victim, and all guardian ad litem reports filed with the court concerning the child.
7. Written information concerning the availability of adoption subsidies for the child, if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Any man who has adopted the minor;

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

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

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

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

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

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

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

(4) **FINDING OF ABANDONMENT.**—A finding of abandonment resulting in a termination of parental rights must be based upon clear and convincing evidence that a parent or person having legal custody has abandoned the child in accordance with the definition contained in s. 63.032. A finding of abandonment may also be based upon emotional abuse or a refusal to provide reasonable financial support, when able, to a birth mother during her pregnancy or on whether the person alleged to have abandoned the child, while being able, failed to establish contact with the child or accept responsibility for the child's welfare.

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

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

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

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

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

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

1. The period of time for which the parent has been or is expected to be incarcerated will constitute a significant portion of the child's minority. In

determining whether the period of time is significant, the court shall consider the child's age and the child's need for a permanent and stable home. The period of time begins on the date that the parent enters into incarceration;

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

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

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

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

(b) The court must enter an order based upon written findings providing for the placement of the minor, but the court may not proceed to determine custody between competing eligible parties. The placement of the child should revert to the parent or guardian who had physical custody of the child at the time of the placement for adoption unless the court determines upon clear and convincing evidence that this placement is not in the best interests of the child or is not an available option for the child. The court may not change the placement of a child who has established a bonded relationship with the current caregiver without providing for a reasonable transition plan consistent with the best interests of the child. The court may direct the parties to participate in a reunification or unification plan with a qualified professional to assist the child in the transition. The court may order scientific testing to determine the paternity of the minor only if the court has determined that the consent of the alleged father would be required, unless

all parties agree that such testing is in the best interests of the child. The court may not order scientific testing to determine paternity of an unmarried biological father if the child has a father as described in s. 63.088(4)(a)-(d) whose rights have not been previously terminated at any time during which the court has jurisdiction over the minor. Further proceedings, if any, regarding the minor must be brought in a separate custody action under chapter 61, a dependency action under chapter 39, or a paternity action under chapter 742.

(7) RELIEF FROM JUDGMENT TERMINATING PARENTAL RIGHTS.—

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

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

(c) At the preliminary hearing, the court, upon the motion of any party or upon its own motion, may order scientific testing to determine the paternity of the minor if the person seeking to set aside the judgment is alleging to be the child's father and that fact has not previously been determined by legitimacy or scientific testing. The court may order visitation with a person for whom scientific testing for paternity has been ordered and who has previously established a bonded relationship with the child.

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

(e) If the court grants relief from the judgment terminating parental rights and no new pleading is filed to terminate parental rights, the placement of the child should revert to the parent or guardian who had

physical custody of the child at the time of the original placement for adoption unless the court determines upon clear and convincing evidence that this placement is not in the best interests of the child or is not an available option for the child. The court may not change the placement of a child who has established a bonded relationship with the current caregiver without providing for a reasonable transition plan consistent with the best interests of the child. The court may direct the parties to participate in a reunification or unification plan with a qualified professional to assist the child in the transition. The court may not direct the placement of a child with a person other than the adoptive parents without first obtaining a favorable home study of that person and any other persons residing in the proposed home and shall take whatever additional steps are necessary and appropriate for the physical and emotional protection of the child.

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

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

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

(a) An interview with the intended adoptive parents;

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

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

- (d) A determination of the financial security of the intended adoptive parents;
- (e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting;
- (f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;
- (g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; and
- (h) A copy of each signed acknowledgment of receipt of disclosure required by s. 63.085.

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

Section 19. Section 63.152, Florida Statutes, is amended to read:

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

Section 20. Subsection (7) of section 63.162, Florida Statutes, is amended to read:

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

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

Section 21. Paragraph (c) of subsection (2) of section 63.167, Florida Statutes, is amended to read:

63.167 State adoption information center.—

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

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

Section 22. Subsection (1) of section 63.202, Florida Statutes, is amended to read:

63.202 Authority to license; adoption of rules.—

(1) The Department of Children and Family Services is authorized and empowered to license child placement ~~welfare~~ agencies that it determines to be qualified to place minors for adoption.

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

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

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

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

a. A child is offered or wanted for adoption; or

b. The person is able to place, locate, or receive a child for adoption.

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

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

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

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

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

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

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

(b) The person accepts living expenses assistance from a prospective adoptive parent or adoption entity without disclosing that she is receiving living expenses assistance from another prospective adoptive parent or adoption entity at the same time in an effort to adopt the same child; or

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

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

1. Knowingly provide false information; or

2. Knowingly withhold material information.

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

Any person who willfully commits adoption deception violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if the sums received by the birth mother or woman holding herself out to be a birth mother do not exceed \$300, and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the sums received by the birth mother or woman holding herself out to be a birth mother exceed \$300. In addition, the person is liable for damages caused by such acts or omissions, including reasonable attorney attorney's fees and costs incurred by the adoption entity or the

prospective adoptive parent. Damages may be awarded through restitution in any related criminal prosecution or by filing a separate civil action.

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

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

63.213 Preplanned adoption agreement.—

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

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

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

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

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

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

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

(h) “Preplanned adoption arrangement” means the arrangement through which the parties enter into an agreement for the volunteer mother to bear the child, for payment by the intended father and intended mother of the expenses allowed by this section, for the intended father and intended mother to assert full parental rights and responsibilities to the child if consent to adoption is not rescinded after birth by a the volunteer mother who is genetically related to the child, and for the volunteer mother to terminate, subject to any a right of rescission, all her parental rights and responsibilities to the child in favor of the intended father and intended mother.

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

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

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

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

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

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

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.