

Petitioners _____ Adoptee _____
Attorney _____ Case Number _____

**ADOPTION CHECKLIST WHERE PETITIONER IS A RELATIVE WITHIN THE
THIRD DEGREE OF CONSANGUINITY AND ADOPTEE IS A MINOR
(Effective July 1, 2008)**

_____ **Since termination of parental rights proceeding is included in petition for adoption, final hearing should be held.**

1. Venue - if parental rights not previously terminated

- a. _____ Petition must be filed either: **(63.087(2)(a))**
1. In the county where the child resides; **or**
 2. In the county where the adoption entity is located.
- b. _____ Duty to adoptive parents-adoption entity must obtain written waiver of venue required under 63.062, if applicable. **63.039(1)(i)**.
- c. _____ Waiver of venue must be separate document. **63.062(10), 63.039(1)(i)**.
- d. _____ If parent objects to venue, hold hearing per 63.087(2)(b). See also 63.062(9).
_____ If parental rights already terminated, Petition must be filed in the county where the TPR was filed or where the adoption entity is located. **(63.102(2))**.

2. Petitioner Requirements

- a. _____ Petitioner(s) is either: **(63.042)**
1. A husband and wife petitioning jointly;
 2. An unmarried adult;
 3. A married person not joined by his or her spouse and the other spouse is the parent of the person to be adopted and has consented; **or**
failure of the other spouse to join the petition is excused by the court for good cause or in the best interest of the child. **63.042(2)(c)**.
- b. _____ Petitioner is not the spouse of the adoptee. **63.042(2)(c)**.
- c. _____ Petitioner is not a homosexual. **63.042(3)**.

3. Time Requirements

- a. _____ Petition to adopt must be filed within 60 days after the TPR order, if any, unless court grants leave for good cause. **63.102(3)**.
- b. _____ Make sure notice of appeal has not been filed or is not pending in TPR case (if there was a TPR case).
- c. _____ The FJ can't be signed until the time to appeal TPR has passed. **63.142(4)**.

4. Presence Requirements

- a. _____ Petitioner is present, or court has excused such presence. **63.142(1)**
- b. _____ Adoptee, unless 12 or under, is present, or court has excused such presence. **63.142(1)**. DOB _____

5. Petition Requirements. 63.112

- a. _____ Contains date and place of birth of adoptee
- b. _____ Contains name to be given to adoptee if adopted
- c. _____ Date petitioner acquired custody, and
- d. _____ Name of adoption entity placing minor, if any
- e. _____ Marital status, and date and place of marriages of petitioners
- f. _____ Divorces of petitioner, if applicable to **stepparent** adoption
- g. _____ Name, age and place and duration of residence of petitioner
- h. _____ Statement that petitioner is able to provide for material needs of child
- i. _____ Contains description and estimated value of any property held by adoptee
- j. _____ Case style and date of entry of order terminating parental rights, or since relative adoption, address if known of any person whose consent is required, and if haven=t consented, facts excusing lack of consent and justifying TPR
- k. _____ Reasons why petitioner desires to adopt adoptee

6. If parental rights not previously terminated:

A. Consent to Adoption or affidavit of non-paternity for each person required under 63.062(1) must be obtained from:

- 1. _____ Minor if over 12 years of age
- 2. _____ Birth mother
- 3. _____ Birth father only if: **(63.062(1) & (2)(a))**:
 - a. _____ the child was born or conceived while the mother and father were married
 - b. _____ the father previously adopted the child;
 - c. _____ the child has been adjudicated by the court to be his child by the date a petition is filed for termination of parental rights;
 - d. _____ the father filed an affidavit of paternity under section 382.013(2)(c) (and his name therefore is on the birth certificate) by the date a TPR petition is filed; or
 - e. _____ the unmarried biological father acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor, has filed acknowledgment with the Office of Vital Statistics (i.e. registered w/ Putative Father Registry) within the required timeframes **AND** has complied with the following requirements:

- 1. _____ If the child was placed with the adoptive parents more than 6 months after birth:
 - i. _____ father developed a substantial relationship with the child
 - ii. _____ father has taken some responsibility for child and child=s future and
 - iii. _____ father demonstrated a full commitment to the child by providing financial support in accordance with father’s ability if not prevented from doing so by person having lawful custody of child **and** either:

:
_____ 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

_____ 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. _____ If the child is under 6 months at time placed with adoptive parents, the unmarried biological father must have shown full commitment to the child by doing the acts set forth in **63.062(2)(b)** before the mother executes her consent to adoption:

i. _____ father filed notarized claim of paternity w/ Putative Father Registry;

ii. _____ within 30 days after service of notice of intended adoption plan, father timely filed affidavit that he is personally fully able & 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; and

iii. _____ if father had knowledge of pregnancy, paid a fair amount of expenses, if not prevented from doing so by mother

4. _____ Any person lawfully entitled to custody of the minor, if required by the court

5. _____ The court with jurisdiction of the minor if the person with physical custody doesn't have authority to consent.

6. **CONSENT OF A PARTY CAN BE WAIVED, see 63.064(1), 63.089(4), 63.032(1)**

7. _____ If any person whose consent is required is deceased, a certified copy of their death certificate must be provided. **63.082(3)(d)**.

Form of Consent-

a. _____ Notification of Right to select independent witness. **63.082(4)(d)**.

b. _____ signed in the presence of two witnesses & acknowledged before a notary public who is not signing as one of the witnesses. _____ Date & time of execution. _____ Witnesses names & addresses printed or typed. **63.082(4)(d)**.

c. _____ If the child is more than 6 months old, the birth parent=s consent must contain a statement that consent is subject to a revocation period of 3 business days. **63.082(4)(c)&(e)**.

d. _____ If the child is 6 months old or younger, the birth parent's consent must contain the language required in section **63.082(4)(e) in at least 12-point boldfaced font**.

e. _____ Acknowledgment of receipt of consent signed by person whose consent is required. **63.082(5)**.

C. Paternity Registry (63.054) Must be searched in ALL stepparent adoptions where the father's parental rights are being terminated

- a. An unmarried biological father must register with the paternity registry prior to filing the petition for TPR to preserve his right to notice and consent to an adoption. **63.054(1).**
- b. The petitioner must contact the Office of Vital Statistics (OVS) by submitting a search application. **63.054(7).**
- c. A certificate from the OVS must be filed with the court containing:
 - _____ 1. the identity and contact information of a possible father, or
 - _____ 2. a statement that after a diligent search, no match was found.**63.054(7).**

7. Documents filed with Petition. 63.112(2):

- a. _____ Certified copy of termination of parental rights order, if any, or _____ consents from those required to consent under **section 63.062(1)**, unless consent excused by court
 - 1. consents must be notarized and witnessed by two people
- b. _____ Any declaratory statement entered under 63.102
- c. _____ Proof interview held with minor if over 12 years old, unless consent of minor in TPR waived by court under section 63.062(1)(c)
- d. _____ Certified copy of child's birth certificate [needed to evaluate if father's consent is required under 63.062(1)(b)(4)]; Family Law form 12.981(b)(1)
- e. _____ A Required Inquiry Affidavit 63.088(4) (required if parental rights not previously terminated) by person placing child for adoption regarding the identity of :
 - i) 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
 - ii) any man who has filed an affidavit of paternity pursuant to s. 382.013(2)© before the date that a petition for termination of parental rights is filed with the court.
 - iii) any man who has adopted the child
 - iv) 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
 - v) any man whom the mother identified as a potential biological father before the date she signed the consent for adoption.

8. Contemporaneous Filing Requirements

- a. UCCJEA/Oath (63.135) filed by party to proceeding: **63.087(4)(e)2 & 63.135**
- b. _____ Disclosures when an adoption entity is involved (**63.085(1) & (2)**)
 - _____ birth mother
 - _____ birth father
 - _____ Adoptive mother
 - _____ Adoptive father

- c. _____ All information required by Indian Child Welfare Act (**25 USCA 1901 et. seq.**).
_____ Birth mother=s affidavit **63.087(4)(e)2**
_____ Birth father=s affidavit (only necessary if birth mother=s affidavit only
addresses the mother=s heritage)

9. Notice Requirements.

- a. _____ Either:
1. the adoptee has never lived with his or her grandparents for more than 6 months in the 24 months preceding the filing of the petition;
 2. the adoptee=s grandparents have been given notice of hearing on the TPR petition; **or**
 3. this adoption is due to the death of the natural parents of the adoptee and a different preference was stated in their will. **63.0425**
- b. _____ Adoption entity who placed child may consent if previously parental rights terminated. In this case, no other consent is required. **63.062(7).**
- c. _____ Notice of hearing must be given to each party in accordance with Florida Rules of Civil Procedure. **63.122(2), rule 1.080(a) and 1.090(d).**
1. _____ Notice must be given to the adoption entity placing the minor. **63.122(4).**
- d. _____ Service of process must be made upon each party as prescribed by law for civil actions unless service of process has been specifically waived. **63.087(5), 63.088(3), 63.122(2) & rule 1.070.**

If parental rights not previously terminated:

10. Service of Petition/Summons/Answer/ (63.087(5) &(6)):

- _____ a. Person whose consent is required must be served with petition and summons, even if have signed a consent to adoption, unless:
_____ A waiver of service of the pleadings and notice of hearing is filed. **63.087(5); 63.089(2)(b)3 (waiver of final hearing & further notice of adoption proceedings is not sufficient to waive Service of Pleadings)**
- _____ b. An answer must be filed and appearance at final hearing required.
- _____ c. Person whose consent is required and who has not executed a consent for adoption or affidavit of nonpaternity and whose identity and location are known, must be personally served, pursuant to chapter 48, at least 20 days before final hearing with copy of TPR petition and notice of the final hearing using language specified in §63.088(3)
- _____ 1. If identity of person whose consent is required is known, but their location is unknown, an affidavit of diligent search pursuant to § 63.088(5) must be conducted.
 - _____ 2. If the location is not discovered through diligent search, constructive service, as provided in Chapter 49, must be made 30 days before final hearing. _____ Notice **must** be published in the county where the person last resided, must contain notice of final hearing using language specified in

§63.088(3). The notice, in addition to all information required under Chapter 49, must include a physical description, including, but not limited to, age, race, hair and eye color, and approximate height and weight of the person, the minor's date of birth, and the place of birth of the minor. *See* § 63.088(6); 63.089(2)(b)2.(note that chapter 49 requires publication where action is filed, judge may require publication where action is filed, in addition to the required publication in county where person last resided).

11. Service of Notice of Intended Adoption Plan on Potential Unmarried Biological Father*

- a. _____ The mother has identified a man/men as the potential unmarried biological father by the date she executes a consent for adoption or unmarried biological father identified through search of Putative Father Registry. 63.062(3).
- b. _____ Known and locatable potential biological father. Adoption entity/Pro se Petitioner shall serve a notice of intended adoption plan (NOIAP) pursuant to chapter 48. NOIAP must contain language specified in 63.062(3) and language specified in 63.062(2)(b)2. READ statutes.
- c. _____ Service of NOIAP not mandatory, if potential unmarried biological father has signed a consent to adoption or an affidavit of nonpaternity. 63.062(3).
- d. _____ Recipient of NOIAP may waive service of process by executing waiver & acknowledging receipt of the plan.
- e. _____ Location of potential unmarried biological father unknown. Conduct diligent search & file affidavit of diligent search per 63.088(5). If location remains unknown, no obligation to provide further notice; consent is not required.

*Statute also requires service of NOIAP on entity whose consent is required. See statutes for details.

12. Court Default against Unmarried Biological father. 63.062(3)(a).

- a. _____ Adoption entity/Pro Se Petitioner has filed proof of service of NOIAP and copy of NOIAP; and
- b. _____ within 30 days of being served with the NIAIP, the unmarried biological father has not taken all of the following actions required to avoid a default:
 - File a claim of paternity with the Florida Putative Father Registry by deadline.
_____ Adoption entity must file certificate from Florida Putative Father Registry with search date more than 30 days after service of NOIAP which states that a claim of paternity was not found.
 - the potential unmarried father has not timely filed affidavit that he is personally fully able & 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; and if father had knowledge of pregnancy,

- paid a fair amount of expenses, if not prevented from doing so by mother; AND
- Provide support for the birth mother and child.

13. Case Management Hearing (rule 12.200(2)) is required within 60 days of filing petition if:

_____ **a.** there is a request for a waiver of consent to an adoption by those persons required to consent by s. 63.062

_____ **b.** notice of hearing on the petition to adopt is not afforded a person whose consent is required but who has not consented

_____ **c.** an affidavit of diligent search and inquiry is filed in lieu of personal service

_____ **d.** the court is otherwise aware that any person having standing objects to the adoption

14. _____ Need Final Judgment

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