

**ADOPTION CHECKLIST WHERE PETITIONER IS STEP-PARENT AND
ADOPTEE IS A MINOR
(Post-May 29, 2003)**

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

1. Residency/Employment 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).**
- d. _____ If out-of state placement, can only be made by an adoption entity if:
- _____ 1. parent placing minor for adoption filed affidavit giving reason for choosing to place minor out-of-state
 - _____ 2. minor is placed with relative or stepparent
 - _____ 3. minor is special needs child as defined in 409.166 (look 409.166 up)
 - _____ 4. other good cause is shown why placement should be made. **63.207(1).**
- e. _____ If this is an out-of-state placement by an adoption entity, a petition for declaratory statement must be filed and converted to a petition for adoption. **63.207(1).**

2. Time Requirements

- a. _____ Adoptee has been in the petitioner's physical custody for at least 90 days, unless shortened by the court for good cause. **63.122(1).**
- b. _____ 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).**
- c. _____ The hearing may be immediately after filing petition for adoption if required consents have been filed
- d. _____ Make sure notice of appeal has not been filed or is not pending in TPR case (if there was a TPR case).
- e. _____ The FJ can't be signed until the time to appeal TPR has passed. **63.142(4).**

3. 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)**

4. 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 stepparent 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

5. 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:
 - 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 established by court proceeding to be his child;
 - d. _____ the father filed an affidavit of paternity under section 382.013(2)(c) (and his name therefore is on the birth certificate); or
 - e. _____ the unmarried biological father registered with the Putative Father Registry.
- 1. _____ If the child is more than 6 months, the consent of an unmarried biological father is necessary only if he complies with the following requirements **(63.062(2)(a))**:
 - 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.
- 2. _____ If the child is under 6 months, the 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. _____ upon service of notice of adoption plan, father filed

affidavit saying he is fully able and willing to take responsibility for the child

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

B. Form of Consent:

_____ If the child is more than 6 months old, the birth parent's consent must contain a statement that there is a 3-day revocation period, or it may be revoked prior to the placement of the child with the adoptive parents, whichever is later. **Section 63.082(4)(c).**

C. Paternity Registry (63.054)

- 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).**

6. 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 [not directly required in statute but needed to evaluate if father's consent is required under 63.062(1)(b)(4)]
- e. _____ "Required Inquiry" Affidavit 63.088(4) (required if parental rights not previously terminated) by person placing child for adoption on information regarding:
 - i) any person the mother was married to at the time of conception or birth
 - ii) any person declared by a court to be the father
 - iii) any man who has adopted the child

- iv) any man the woman was cohabitating with when conception might have occurred
- v) any person who has acknowledged or claimed paternity of the minor

7. Contemporaneous Filing Requirements

- a. UCCJA/Oath (63.135) filed by party to proceeding:
 - 1. child's present address
 - 2. child's addresses for the past 5 years
 - 3. names and addresses of the persons with whom the child has lived the past 5 years
 - 4. whether petitioner has participated in any other capacity or any other litigation involving the child
 - 5. whether petitioner has any information concerning any other custody proceeding involving the child in any other court
 - 6. whether petitioner knows of any other person who has physical custody of the child or would asserts rights of visitation to said child;
- b. _____ Disclosures when an adoption entity is involved (**63.085(1) & (2)**)
 - _____ birth mother
 - _____ birth father
 - _____ Adoptive mother
 - _____ Adoptive father
 - _____ Not required since Chapter 39 TPR
- c. _____ All information required by Indian Child Welfare Act (**25 USCA 1901 et. seq.**)
 - _____ Birth mother's affidavit
 - _____ Birth father's affidavit (only necessary if birth mother's affidavit only addresses the mother's heritage)

8. Notice Requirements.

- a. _____ Adoption entity who placed child may consent if previously parental rights terminated. In this case, no other consent is required. **63.062(7).**
- b. _____ 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).**
- c. _____ Service of process must be made upon each party as prescribed by law for civil actions. **63.122(2) & rule 1.070.**

If parental rights not previously terminated:

- e. _____ Person whose consent is required and whose identity and location are known, must be personally served 20 days before final hearing
 - _____ 1. If identity of person whose consent is required is known, but their location is unknown, a diligent search pursuant to s. 63.088(5) must be conducted.
 - _____ 2. If the location is not discovered through diligent search,

constructive service, under Chapter 49, must be made 30 days before final hearing.

___ Notice must be published in the county where the person last resided and with requirements of s. 63.088(6).

9. 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 intermediary, attorney, or agency is seeking fees or costs in excess of those provided under s. 63.097 or 63.212(4)

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

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