

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Chairman, Judicial Proceedings Committee (Maryland
Judicial Conference) and Senator Giannetti**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Permanency for Families and Children Act of 2005**

3 FOR the purpose of revising substantively the laws relating to termination of
4 parental rights, guardianship, and adoption; altering certain statements of
5 findings and purposes; stating the scope of certain provisions; altering certain
6 provisions relating to foreign orders; altering certain provisions relating to
7 paternity; providing for agreements on postadoption contact, including
8 mediation of disputes and enforcement; clarifying and altering certain
9 provisions relating to the appointment of counsel in certain cases; altering
10 certain provisions relating to the assessment of costs; altering certain provisions
11 relating to appeals; revising certain requirements for petitions and petitioners;
12 requiring local departments to provide certain assistance to petitioners;
13 requiring a clerk of a juvenile court to keep a listing of certain addresses;
14 clarifying a duty of a juvenile court clerk to disclose certain listings to a local
15 department; altering certain provisions relating to consent to a guardianship or
16 adoption; restating and altering provisions relating to notices of filings and

1 service of show cause orders; restating and altering certain provisions relating
2 to granting petitions for guardianship and adoption; revising certain
3 guardianship review procedures; repealing a certain religious exemption;
4 restating and altering certain time limits; requiring the dismissal of a certain
5 petition under certain circumstances; delineating procedures for private agency
6 guardianship and adoption; delineating the contents and effect of certain orders;
7 delineating the authority of courts during a guardianship; prohibiting a court
8 from entering a certain order until the petitioner files a certain accounting;
9 restating and revising certain provisions concerning review hearings;
10 establishing certain procedures for failed conditional placements before or
11 during a guardianship; revising certain provisions relating to the termination of
12 a guardianship; restating provisions relating to records; restating and altering
13 provisions relating to prohibited payments; specifying venue for purposes of
14 certain guardianship and adoption proceedings; providing for the construction of
15 a termination of parental rights as voluntary under certain circumstances;
16 altering provisions relating to the waiver of reasonable reunification efforts in a
17 child in need of assistance proceeding; altering provisions concerning
18 permanency planning to include certain planned permanent living
19 arrangements; requiring the Department of Human Resources to maintain a
20 website for certain postings; authorizing the Department to charge a certain fee
21 for certain postings; requiring certain documents in proceedings relating to
22 children in need of assistance to contain information about the website; altering
23 provisions relating to the duty of the Public Defender to provide legal
24 representation in certain guardianship and adoption cases; expanding the
25 categories of children whom volunteers assist under the Court-Appointed
26 Special Advocate Program; recodifying a provision relating to the construction of
27 certain terms in written instruments; defining certain terms; altering certain
28 definitions; making certain conforming changes; making stylistic changes; and
29 generally relating to termination of parental rights, guardianship, and adoption.

30 BY renumbering

31 Article - Family Law
32 Section 1-101(b), (c), (d), (f), and (g), respectively
33 to be Section 1-101(d), (e), (h), (j), and (k) , respectively
34 Annotated Code of Maryland
35 (2004 Replacement Volume)

36 BY repealing

37 Article - Family Law
38 Section 5-301 through 5-330 and the subtitle "Subtitle 3. Adoption and
39 Guardianship With the Right to Consent to Adoption"; 5-3A-01 through
40 5-3A-07 and the subtitle "Subtitle 3A. Access to Birth and Adoption
41 Records"; 5-410.1(g), 5-4B-01(c), 5-4C-01(f), 5-501(c) and (l), 5-507(c),
42 5-559(b), 5-586(b), 5-701(f), 5-705.1(a), 5-1201(d) and (f), and 6-101(b)
43 Annotated Code of Maryland
44 (2004 Replacement Volume)

1 BY repealing and reenacting, with amendments,
2 Article 27A - Public Defender
3 Section 4(b)(5) and (d)
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2004 Supplement)

6 BY adding to
7 Article 88A - Department of Human Resources
8 Section 18
9 Annotated Code of Maryland
10 (2003 Replacement Volume and 2004 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 3-801(p), 3-802(a)(5), 3-810(a), 3-812(a)(2), (b), and (d), 3-820(c)(2),
14 3-822(d), 3-823(e)(1) and (i)(1), 3-830(b)(2), 5-106(r), and 6-203
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2004 Supplement)

17 BY adding to
18 Article - Courts and Judicial Proceedings
19 Section 3-812(f)
20 Annotated Code of Maryland
21 (2002 Replacement Volume and 2004 Supplement)

22 BY adding to
23 Article - Estates and Trusts
24 Section 4-414
25 Annotated Code of Maryland
26 (2001 Replacement Volume and 2004 Supplement)

27 BY adding to
28 Article - Family Law
29 Section 1-101(b), (c), (f), and (g); 5-301 through 5-362 to be under the new
30 subtitle "Subtitle 3. ~~Adoption Without or After Guardianship by~~
31 Guardianship to and Adoption Through Local Department"; 5-3A-01
32 through 5-3A-45 to be under the new subtitle "Subtitle 3A. Private Agency
33 Guardianship and Adoption"; 5-3B-01 through 5-3B-32 to be under the
34 new subtitle "Subtitle 3B. Independent Adoption"; and 5-410.1(d)(4)
35 Annotated Code of Maryland
36 (2004 Replacement Volume)

37 BY repealing and reenacting, with amendments,
38 Article - Family Law

1 Section 1-101(e), 4-402(a), 4-403(a) and (b)(1), 4-501(k), 5-101, 5-401,
 2 5-407(c), 5-410.1(b)(3), (c)(1), (d)(2) and (3), and (f), 5-412, 5-4B-02(d),
 3 5-4C-06(a)(1)(vii) and (ix), 5-4C-07(c), 5-504(a)(2), 5-506(b) and (c),
 4 5-507(b), 5-517, 5-525(d)(1) and (e), 5-525.1(b)(1)(iii), 5-551, 5-554(b)(2),
 5 5-554.1(a) and (c)(4), 5-559.2(a), 5-561(c), (e), and (i)(2), 5-562(a)(3),
 6 5-563(b)(3), 5-564(a)(2)(iii) and (d)(4), 5-567, 5-570(d) and (g),
 7 5-574(b)(3)(ii), 5-580.1(a) and (c)(4), 5-584(a) and (c)(1), 5-587(b),
 8 5-588(c)(2) and (f)(1), 5-593, 5-594.1(b), 5-701(o), 5-706(e), 5-706.1(b)(4),
 9 5-710(c), 5-712(b)(1), 5-713(a), 5-714(b)(1) and (c)(1), 5-1102(a)(1) and (c),
 10 5-1202(a)(6), 5-1203, 6-103(a), 9-402(b)(4), 10-114(a)(3), and 14-101(j)
 11 Annotated Code of Maryland
 12 (2004 Replacement Volume)

13 BY repealing and reenacting, without amendments,
 14 Article - Family Law
 15 Section 5-410.1(e) and 5-554.1(c)(1) and (3)
 16 Annotated Code of Maryland
 17 (2003 Replacement Volume and 2004 Supplement)

18 BY adding to
 19 Article - Real Property
 20 Section 2-123
 21 Annotated Code of Maryland
 22 (2003 Replacement Volume and 2004 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 24 MARYLAND, That Section(s) 1-101(b), (c), (d), (f), and (g), respectively, of Article -
 25 Family Law of the Annotated Code of Maryland be renumbered to be Section(s)
 26 1-101(d), (e), (h), (j), and (k), respectively.

27 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-301 through
 28 5-330 and the subtitle "Subtitle 3. Adoption and Guardianship With the Right to
 29 Consent to Adoption"; 5-3A-01 through 5-3A-07 and the subtitle "Subtitle 3A. Access
 30 to Birth and Adoption Records"; 5-4B-01(c), 5-4C-01(f), 5-501(c) and (l), 5-507(c),
 31 5-559(b), 5-586(b), 5-701(f), 5-705.1(a), 5-1201(d) and (f), and 6-101(b) of Article -
 32 Family Law of the Annotated Code of Maryland be repealed.

33 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 34 read as follows:

35 **Article 27A - Public Defender**

36 4.

37 (b) Legal representation shall be provided indigent defendants or parties in
 38 the following proceedings:

1 (5) [An involuntary termination of parental rights proceeding or a
 2 hearing under § 5-319 of the Family Law Article, if the party is entitled to Public
 3 Defender representation under § 5-323] AS TO A PARENT, A HEARING IN
 4 CONNECTION WITH GUARDIANSHIP OR ADOPTION UNDER TITLE 5, SUBTITLE 3, PART
 5 II OR PART III of the Family Law Article.

6 (d) Representation by the Office of the Public Defender[,] or [by] an attorney
 7 appointed by the Office [of the Public Defender, shall]:

8 (1) SHALL extend to all stages in the proceedings[, including custody]:

9 (I) INCLUDING, IN CRIMINAL PROCEEDINGS, CUSTODY,
 10 interrogation, preliminary hearing, arraignment, trial, [a hearing in an involuntary
 11 termination of parental rights proceeding, a hearing under § 5-319 of the Family Law
 12 Article,] and appeal, if any[.];

13 (II) AS PROVIDED IN § 3-813 OF THE COURTS ARTICLE; AND

14 (III) UNDER TITLE 5, SUBTITLE 3, PART II OR III OF THE FAMILY LAW
 15 ARTICLE, INCLUDING:

16 1. A HEARING IN CONNECTION WITH A GUARDIANSHIP
 17 CASE;

18 2. A HEARING UNDER § 5-326 OF THE FAMILY LAW ARTICLE
 19 FOR WHICH THE PARENT HAS NOT WAIVED THE RIGHT TO NOTICE;

20 3. A HEARING IN CONNECTION WITH AN ADOPTION CASE;
 21 AND

22 4. AN APPEAL; and [shall]

23 (2) SHALL continue until [the]:

24 (I) THE final disposition of the cause[.]; or [until the]

25 (II) THE assigned attorney is relieved by the Public Defender or by
 26 order of the court in which the cause is pending.

27 COMMITTEE NOTE: Chapter ___ (S.B. ___(5lr1779) /H.B. ___(5lr1778), Acts
 28 of 2005, amended provisions of this section to reflect that a parent has the
 29 right to participate in hearings after termination of parental rights if the
 30 parent's child has not been adopted. *See In Re Adoption/Guardianship*
 31 *Nos. 11387 & 11388. 354 Md. 574. 731 A.2d 972 (1999).*

32 In subsection (d)(1)(i) of this section, the phrase "in criminal proceedings"
 33 was added at the request of the Office of the Public Defender.

Article 88A - Department of Human Resources

18.

THE DEPARTMENT OF HUMAN RESOURCES SHALL MAINTAIN A WEBSITE ON WHICH TO POST NOTICES OF PETITIONS UNDER §§ 5-316(F)(3)(II), 5-3A-15(D)(3)(II), AND 5-3B-15(D)(3)(II) OF THE FAMILY LAW ARTICLE.

Article - Courts and Judicial Proceedings

3-801.

(p) "Local department" means [the]:

(1) THE local department of social services for the county in which the court is located; OR

(2) IN MONTGOMERY COUNTY, THE COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

3-802.

(a) The purposes of this subtitle are:

(5) Except as otherwise provided by law, to hold the local department [of social services] responsible for providing services to assist the parents with remedying the circumstances that required the court's intervention;

3-810.

(a) (1) Except as otherwise provided in this subtitle, the Maryland Rules govern the format of a petition and of other pleadings and the procedures to be followed by the court and parties under this subtitle.

(2) EACH DOCUMENT THAT A LOCAL DEPARTMENT SERVES ON A PARENT UNDER THIS SUBTITLE SHALL INCLUDE INFORMATION ABOUT THE WEBSITE THAT THE DEPARTMENT OF HUMAN RESOURCES MAINTAINS UNDER ARTICLE 88A, § 18 OF THE CODE.

3-812.

(a) (2) "Crime of violence" [has]:

(I) HAS the meaning stated in § 14-101 of the Criminal Law Article; OR

(II) AS TO A CRIME COMMITTED IN ANOTHER STATE, MEANS A CRIME THAT, IF COMMITTED IN THIS STATE, WOULD BE A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.

1 (b) In a petition under this subtitle, a local department may ask the court to
2 find that reasonable efforts to reunify a child with the child's [natural] parent or
3 guardian are not required if the local department concludes that a [natural] parent
4 or guardian has:

5 (1) Subjected the child to:

6 (i) Chronic abuse;

7 (ii) Chronic and life-threatening neglect;

8 (iii) Sexual abuse; or

9 (iv) Torture;

10 (2) Been convicted, IN ANY STATE OR ANY COURT OF THE UNITED
11 STATES, OF:

12 (i) [In this State of] a crime of violence against:

13 1. A MINOR OFFSPRING OF THE PARENT OR GUARDIAN;

14 2. the child [,the other natural]; OR

15 3. ANOTHER parent OR GUARDIAN of the child[, another
16 child of the natural parent, or any individual who resides in the household of the
17 natural parent]; OR

18 (ii) [In any state or in any court of the United States of a crime that
19 would be a crime of violence if committed in this State, against the child, the other
20 natural parent of the child, another child of the natural parent, or any individual who
21 resides in the household of the natural parent; or

22 (iii) Of aiding] AIDING or abetting, conspiring, or soliciting to
23 commit a crime described in subitem (i) [or (ii)] of this item; or

24 (3) Involuntarily lost parental rights of a sibling of a child.

25 (d) If the court finds by clear and convincing evidence that any of the
26 circumstances specified in subsection (b) of this section exists, the court shall waive
27 the requirement that reasonable efforts be made to reunify the child with the child's
28 [natural] parent or guardian.

29 (F) IF A PARENT CONSENTS TO GUARDIANSHIP OR ADOPTION IN
30 ACCORDANCE WITH § 5-320 OR § 5-338 OF THE FAMILY LAW ARTICLE, LOSS OF
31 PARENTAL RIGHTS SHALL BE CONSIDERED VOLUNTARY.

32 3-820.

33 (c) (2) The motion shall set forth [the]:

1 (I) THE facts on which the LOCAL department relied in removing
2 the [child] CHILD; and [the]

3 (II) THE identity of [any witnesses] EACH WITNESS.

4 3-822.

5 (d) On request of a local department, the clerk's office shall disclose to the
6 local department all addresses listed by a parent of a CINA within the preceding [9
7 months] 270 DAYS, ~~for the purpose of attempting [notification of a petition] SERVICE~~
8 ~~OF A SHOW CAUSE ORDER for guardianship [with the right to consent to adoption or~~
9 ~~long term care short of adoption] UNDER § 5-316 OF THE FAMILY LAW ARTICLE.~~

10 3-823.

11 (e) At a permanency planning hearing, the court shall:

12 (1) Determine the child's permanency plan, which may be:

13 (i) Reunification with the parent or guardian;

14 (ii) Placement with a relative for:

15 1. Adoption; or

16 2. Custody and guardianship;

17 (iii) Adoption by a nonrelative;

18 (iv) Guardianship by a nonrelative; OR

19 (v) [Continuation in a specified placement on a permanent basis
20 because of the child's special needs or circumstances;

21 (vi) Continuation in placement for a specified period because of the
22 child's special needs or circumstances; or

23 (vii) Independent living] ANOTHER PLANNED PERMANENT LIVING
24 ARRANGEMENT THAT:

25 1. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE CHILD,
26 INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY, PHYSICAL
27 PLACEMENT, AND SOCIALIZATION NEEDS; AND

28 2. INCLUDES GOALS THAT PROMOTE THE CONTINUITY OF
29 RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND SIGNIFICANT ROLE
30 IN THE CHILD'S LIFE; and

31 (i) (1) In this subsection, "preadoptive parent" means an individual whom a
32 child placement agency, as defined in [§ 5-301] § 5-101 of the Family Law Article,

1 approves to adopt a child who has been placed in the individual's home for adoption
2 before the [final decree] ORDER of adoption.

3 3-830.

4 (b) (2) The purpose of the Program is to provide volunteers whose primary
5 purpose is to ensure [that children who are the subject of a CINA proceeding are
6 provided with] THE PROVISION OF appropriate service and case planning [that is in
7 their] CONSISTENT WITH THE best [interest] INTERESTS OF A CHILD WHO IS THE
8 SUBJECT OF:

9 (I) A CINA PROCEEDING; OR

10 (II) A GUARDIANSHIP REVIEW PROCEEDING UNDER TITLE 5,
11 SUBTITLE 3 OF THE FAMILY LAW ARTICLE.

12 5-106.

13 (r) A prosecution for an offense [of unlawfully charging or receiving
14 compensation in connection with an adoption] under [§ 5-327] § 5-362, § 5-3A-45, OR
15 § 5-3B-32 of the Family Law Article AS TO UNLAWFULLY CHARGING OR RECEIVING
16 COMPENSATION IN CONNECTION WITH ADOPTION shall be instituted within 3 years
17 after the offense was committed.

18 6-203.

19 (a) The general rule of § 6-201 OF THIS SUBTITLE does not apply to actions
20 enumerated in this section.

21 (b) (1) The venue of the following actions is in the county where all or any
22 portion of the subject matter of the action is located:

23 [(1)] (I) Partition of real estate;

24 [(2)] (II) Enforcement of a charge or lien on land;

25 [(3)] (III) Eminent domain;

26 [(4)] (IV) Trespass to land; and

27 [(5)] (V) Waste.

28 [(c)] (2) If the property lies in more than one county, the court [in which]
29 WHERE proceedings are first brought has jurisdiction over the entire property.

30 [(d)] (C) The venue of an action to recover damages against a railroad
31 company for injury to livestock is the county where the injury occurred.

32 (D) THE VENUE OF AN ACTION FOR GUARDIANSHIP UNDER TITLE 5, SUBTITLE
33 3 OF THE FAMILY LAW ARTICLE IS IN THE COUNTY WHERE THE COURT HAS

1 JURISDICTION OVER THE CHILD IN NEED OF ASSISTANCE CASE UNDER TITLE 3,
2 SUBTITLE 8 OF THIS ARTICLE.

3 (e) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
4 SUBSECTION, THE venue for a proceeding for adoption of [a person] AN INDIVIDUAL
5 who is physically within [the] THIS State or subject to the jurisdiction of an equity
6 court is in a county [in which] WHERE:

7 [(1)] (I) The petitioner is domiciled;

8 [(2)] (II) The petitioner has resided for at least 90 days next preceding
9 the filing of the petition;

10 [(3)] (III) A licensed child placement agency having legal or physical
11 custody of the [person to be adopted] INDIVIDUAL is located;

12 [(4)] (IV) The [person to be adopted] INDIVIDUAL is domiciled, if [he]
13 THE INDIVIDUAL is related to the petitioner by blood or marriage or is an adult; or

14 [(5)] (V) An equity court has continuing jurisdiction over the custody of
15 the [person to be adopted] INDIVIDUAL.

16 (2) THE VENUE IN AN ADOPTION OF AN INDIVIDUAL UNDER TITLE 5,
17 SUBTITLE 3, PART III OF THE FAMILY LAW ARTICLE IS IN THE COURT WITH
18 JURISDICTION OVER THE INDIVIDUAL UNDER TITLE 3, SUBTITLE 8 OF THIS ARTICLE.

19 (3) THE VENUE IN AN ADOPTION OF AN INDIVIDUAL UNDER TITLE 5,
20 SUBTITLE 3, PART IV OF THE FAMILY LAW ARTICLE IS IN THE COURT WHERE THE
21 INDIVIDUAL'S GUARDIANSHIP CASE IS PENDING.

22 **Article - Estates and Trusts**

23 4-414. ADOPTEES.

24 (A) "WILL" DEFINED.

25 IN THIS SECTION, "WILL" INCLUDES ANOTHER WRITTEN INSTRUMENT OF
26 SIMILAR IMPORT.

27 (B) CONSTRUCTION OF WILL.

28 (1) UNLESS A WILL EXECUTED ON OR AFTER JUNE 1, 1947, CLEARLY
29 INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
30 EQUIVALENT TERM IN THE WILL INCLUDES AN ADOPTEE WHETHER THE WILL WAS
31 EXECUTED BEFORE OR AFTER A COURT ENTERED AN ORDER FOR ADOPTION.

32 (2) UNLESS A WILL EXECUTED ON OR BEFORE MAY 31, 1947, CLEARLY
33 INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
34 EQUIVALENT TERM IN THE WILL INCLUDES AN ADOPTEE IF, ON OR AFTER JUNE 1,

1 1947, A COURT ENTERED AN INTERLOCUTORY ORDER FOR ADOPTION OR, IF NONE, A
2 FINAL ORDER FOR ADOPTION.

3 COMMITTEE NOTE: This section is derived without substantive change from
4 former FL § 5-308(d), as it related to wills.

5 Former FL § 5-308(a), which disclaimed any intent to limit distribution by
6 will, is omitted from this section as the disclaimer seemingly applied only
7 to other provisions of former FL § 5-308.

8 The word "order" is substituted for the former, more archaic "decree".

9 As to other instruments, *see* new RP § 2-123.

10 **Article - Family Law**

11 1-101.

12 (B) CHILD IN NEED OF ASSISTANCE.

13 "CHILD IN NEED OF ASSISTANCE" MEANS AN INDIVIDUAL ADJUDICATED AS A
14 CHILD IN NEED OF ASSISTANCE UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
15 ARTICLE.

16 COMMITTEE NOTE: This subsection is new and added to allow concise and
17 consistent reference to children in need of assistance without repetition of
18 the cross-reference to the Courts Article provisions.

19 (C) CINA CASE.

20 "CINA CASE" MEANS A CASE UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
21 ARTICLE.

22 COMMITTEE NOTE: This subsection is new and added to allow concise and
23 consistent reference to cases involving adjudication of children in need of
24 assistance without repetition of the cross-reference to the Courts Article
25 provisions.

26 (F) JUVENILE COURT.

27 "JUVENILE COURT" MEANS THE CIRCUIT COURT FOR A COUNTY SITTING AS A
28 JUVENILE COURT.

29 COMMITTEE NOTE: This subsection is new and added to allow concise
30 reference to juvenile courts. Accordingly, former FL § 5-701(f), which
31 defined "court" solely for purposes of FL Title 5, Subtitle 7, and former FL
32 § 5-1201(d), which incorporated the § 5-701(f) definition, are deleted as
33 unnecessary.

34 This definition also will apply to current FL §§ 1-201(a)(1) and (5) and (c),

1 5-525(a)(1)(ii), 5-525.2(a), 5-544(3), and 5-545(b), in which the term
2 "juvenile court" is used without definition.

3 Defined term: "County" § 1-101

4 (G) LOCAL DEPARTMENT.

5 "LOCAL DEPARTMENT" MEANS:

6 (1) A LOCAL DEPARTMENT OF SOCIAL SERVICES; OR

7 (2) IN MONTGOMERY COUNTY, THE COUNTY DEPARTMENT OF HEALTH
8 AND HUMAN SERVICES.

9 COMMITTEE NOTE: This subsection is new and added to allow concise
10 reference to local departments and their counterpart in Montgomery
11 County under current Art. 88A, § 13A of the Code. Accordingly, former FL
12 §§ 5-401(c), 5-4C-01(f), 5-501(l), 5-705.1(a), 5-1201(f), and 6-101(b),
13 which defined "local department" for specific parts of this article, are
14 deleted as unnecessary.

15 Additionally, current FL §§ 4-501(k), 5-701(o), and 14-101(j), which define
16 "local department" in terms of a specific jurisdiction, are amended to
17 reflect the addition of this new subsection.

18 [(e)] (I) "State" means, except in Title 10, Subtitle 3 of this article:

19 (1) a state, COMMONWEALTH, possession, or territory of the United
20 States; OR

21 (2) the District of Columbia[; or

22 (3) the Commonwealth of Puerto Rico].

23 COMMITTEE NOTE: This subsection is derived from former FL § 1-101(e) and
24 revised to conform to the substance of definitions of "state" in other revised
25 articles of the Code. *See, e.g.*, CS § 1-101(n), IN § 1-101(mm), and PUC §
26 1-101(ff).

27 4-402.

28 (a) (1) To implement the policies set forth in this subtitle, the Secretary
29 shall establish in each local department [of social services] a program of services to
30 families with children.

31 (2) The program shall be available to:

32 [(1)] (I) those families who are receiving temporary cash assistance or
33 Supplemental Security Income; and

1 [(2)] (II) those families whose gross income is 80% or less of this State's
2 median income adjusted for family size in accordance with [rules and] regulations
3 adopted by the Social Services Administration.

4 4-403.

5 (a) The Department of Human Resources shall continue to develop and
6 maintain a program to carry out the purposes of this subtitle in each local department
7 [of social services].

8 (b) In implementing the program, the Department of Human Resources shall:

9 (1) adopt [rules, regulations, and], BY REGULATION, guidelines for
10 implementing the program in each local department [of social services];

11 4-501.

12 (k) "Local department" means the local department [of social services] that
13 has jurisdiction in the county:

14 (1) where the home is located; or

15 (2) if different, where the abuse is alleged to have taken place.

16 5-101. DEFINITIONS.

17 (A) IN GENERAL.

18 In this title[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

19 COMMITTEE NOTE: This subsection is derived from the introductory phrase
20 of former FL § 5-101.

21 (B) ADOPTIVE PARENT.

22 "ADOPTIVE PARENT" MEANS AN INDIVIDUAL WHO COMPLETES ADOPTION OF
23 ANOTHER INDIVIDUAL.

24 COMMITTEE NOTE: This subsection is new and added to allow concise
25 reference to individuals who have adopted another individual, whether
26 under this title or other law. Although Maryland law allows adoption in
27 this State only by adults, other jurisdictions may not. Accordingly, "adult"
28 is not used.

29 This definition also will apply to current FL §§ 5-408 and 5-410.1, in
30 which the term "adoptive parent" is used without definition.

31 (C) CHILD PLACEMENT AGENCY.

32 "CHILD PLACEMENT AGENCY" MEANS:

1 (1) A LOCAL DEPARTMENT; OR

2 (2) A PRIVATE AGENCY THAT IS LICENSED BY THE SOCIAL SERVICES
3 ADMINISTRATION OF THE DEPARTMENT UNDER § 5-507 OF THIS TITLE, OR BY A
4 COMPARABLE GOVERNMENTAL UNIT OF ANOTHER STATE, TO PLACE CHILDREN.

5 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(b) and
6 revised to apply to all of FL Title 5. Accordingly, former FL §§ 5-4B-01(c)
7 and 5-501(c), which cross referenced the former FL § 5-301(b) definition,
8 are deleted.

9 This definition also will apply to current FL § 5-408, in which the term
10 "child placement agency" is used without definition.

11 In item (1) of this subsection, the former phrase "of social services" is
12 deleted in light of the newly defined term "local department", which also
13 encompasses the Montgomery County Department of Health and Human
14 Services.

15 In item (2) of this subsection, the reference to "a comparable governmental
16 unit of another state" is added for completeness.

17 Defined terms: "Department" § 5-101

18 "Local department" § 1-101

19 "State" § 1-101

20 (D) CRIME OF VIOLENCE.

21 "CRIME OF VIOLENCE":

22 (1) HAS THE MEANING STATED IN § 14-101 OF THE CRIMINAL LAW
23 ARTICLE; OR

24 (2) AS TO A CRIME COMMITTED IN ANOTHER STATE, MEANS A CRIME
25 THAT, IF COMMITTED IN THIS STATE, WOULD BE A CRIME OF VIOLENCE AS DEFINED
26 IN § 14-101 OF THE CRIMINAL LAW ARTICLE.

27 COMMITTEE NOTE: This subsection is new and added to allow concise
28 reference to crimes of violence without repetition of the cross-reference to
29 the Criminal Law Article definition.

30 Defined term: "State" § 1-101

31 (E) DEPARTMENT.

32 "Department" means the STATE Department of Human Resources.

33 COMMITTEE NOTE: This subsection is derived from former FL § 5-101,
34 except the introductory phrase. Accordingly, former FL §§ 5-559(b) and
35 5-586(b), which defined "Department", are deleted.

1 (F) DISABILITY.

2 "DISABILITY" MEANS:

3 (1) ALCOHOL DEPENDENCE, AS DEFINED IN § 8-101 OF THE HEALTH -
4 GENERAL ARTICLE;

5 (2) DRUG DEPENDENCE, AS DEFINED IN § 8-101 OF THE HEALTH -
6 GENERAL ARTICLE;

7 (3) A MENTAL DISORDER, AS DEFINED IN § 10-101 OF THE HEALTH -
8 GENERAL ARTICLE; OR

9 (4) MENTAL RETARDATION, AS DEFINED IN § 7-101 OF THE HEALTH -
10 GENERAL ARTICLE.

11 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(c).

12 No change is made other than renumbering and reordering of the
13 conditions in alphabetical order.

14 SUBTITLE 3. ~~ADOPTION WITHOUT OR AFTER GUARDIANSHIP BY~~ GUARDIANSHIP TO
15 AND ADOPTION THROUGH LOCAL DEPARTMENT.

16 PART I. GENERAL PROVISIONS.

17 5-301. DEFINITIONS.

18 (A) IN GENERAL.

19 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

20 COMMITTEE NOTE: This subsection formerly was FL § 5-301(a). Only a
21 stylistic change is made.

22 (B) CAREGIVER.

23 "CAREGIVER" MEANS A PERSON WITH WHOM A CHILD RESIDES AND WHO
24 EXERCISES RESPONSIBILITY FOR THE WELFARE OF THE CHILD.

25 COMMITTEE NOTE: This subsection is new and added to exemplify persons
26 who, in addition to a parent, might care for a child.

27 Defined terms: "Child" § 5-301

28 "Person" § 1-101

29 (C) CHILD.

30 "CHILD" MEANS AN INDIVIDUAL WHO IS THE SUBJECT OF A GUARDIANSHIP OR
31 ADOPTION PETITION UNDER THIS SUBTITLE.

1 COMMITTEE NOTE: This subsection is new and added to allow concise
2 reference to the subject of a petition under this subtitle. Use of the word
3 "child" as the defined term reflects that, in some instances, a petition must
4 be filed during the minority of the subject and, in any event, that most
5 petitions involve minors. Such usage, however, is not intended to suggest
6 that an individual who is a minor when a petition is filed will not be an
7 adult by the time a court rules on the petition.

8 Defined term: "Guardianship" § 5-301

9 (D) GUARDIANSHIP.

10 "GUARDIANSHIP" MEANS AN AWARD, UNDER THIS SUBTITLE, OF ANY POWER OF
11 A GUARDIAN.

12 COMMITTEE NOTE: This subsection is substituted for former FL § 5-301(e),
13 which defined "guardianship" in terms of the right to consent to adoption
14 or long-term care short of adoption, to conform to the scope of this subtitle.

15 (E) IDENTIFYING INFORMATION.

16 "IDENTIFYING INFORMATION" MEANS INFORMATION THAT REVEALS THE
17 IDENTITY OR LOCATION OF AN INDIVIDUAL.

18 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(i) and
19 restated in positive, rather than negative, terms, for consistency with
20 comparable provisions such as current FL § 5-701(i).

21 (F) PARENT.

22 (1) "PARENT" MEANS AN INDIVIDUAL WHO, AT THE TIME A PETITION
23 FOR GUARDIANSHIP IS FILED UNDER THIS SUBTITLE OR AT ANY TIME BEFORE A
24 COURT TERMINATES THE INDIVIDUAL'S PARENTAL RIGHTS:

25 (I) MEETS A CRITERION IN § 5-306(A) OF THIS SUBTITLE; OR

26 (II) IS THE MOTHER.

27 (2) "PARENT" DOES NOT INCLUDE AN INDIVIDUAL WHOM A COURT HAS
28 ADJUDICATED NOT TO BE A FATHER OR MOTHER OF A CHILD.

29 COMMITTEE NOTE: This subsection is new and added to allow concise
30 reference to an individual who is a party to, or has the right to notice of, a
31 case under this subtitle due to a parental relationship.

32 Defined terms: "Child" § 5-301

33 "Guardianship" § 5-301

34 "Includes" § 1-101

35 (G) PARTY.

1 "PARTY" MEANS:

2 (1) IN A GUARDIANSHIP CASE UNDER THIS SUBTITLE:

3 (I) THE CHILD;

4 (II) EXCEPT AS PROVIDED IN § 5-326(A)(3)(III) OF THIS SUBTITLE,
5 THE CHILD'S PARENT; AND

6 (III) THE LOCAL DEPARTMENT TO WHICH THE CHILD IS
7 COMMITTED;

8 (2) IN AN ADOPTION CASE UNDER PART III OF THIS SUBTITLE:

9 (I) THE CHILD;

10 (II) THE CHILD'S PARENT; AND

11 (III) THE INDIVIDUAL SEEKING ADOPTION;

12 (3) IN AN ADOPTION CASE UNDER PART IV OF THIS SUBTITLE:

13 (I) THE CHILD; AND

14 (II) THE INDIVIDUAL SEEKING ADOPTION; AND

15 (4) IF EXPRESS REFERENCE IS MADE TO A CINA CASE, A
16 GOVERNMENTAL UNIT OR PERSON DEFINED AS A PARTY IN § 3-801 OF THE COURTS
17 ARTICLE.

18 COMMITTEE NOTE: This subsection is new and added to allow concise
19 reference to a party in a case under this subtitle or a CINA case.

20 Defined terms: "Child" § 5-301

21 "CINA case" § 1-101

22 "Guardianship" § 5-301

23 "Local department" § 1-101

24 "Parent" § 5-301

25 "Person" § 1-101

26 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in new
27 § 5-301, definitions in §§ 1-101 and 5-101 of this article apply to this
28 subtitle.

29 5-302. SCOPE OF SUBTITLE.

30 (A) PROCEEDINGS.

1 THIS SUBTITLE APPLIES ONLY TO:

2 (1) GUARDIANSHIP OF AN INDIVIDUAL WHO IS COMMITTED TO A LOCAL
3 DEPARTMENT AS A CHILD IN NEED OF ASSISTANCE;

4 (2) ADOPTION OF AN INDIVIDUAL WHO IS COMMITTED TO A LOCAL
5 DEPARTMENT AS A CHILD IN NEED OF ASSISTANCE, WITHOUT PRIOR TERMINATION
6 OF PARENTAL RIGHTS AS TO THE INDIVIDUAL; AND

7 (3) ADOPTION OF AN INDIVIDUAL UNDER GUARDIANSHIP UNDER THIS
8 SUBTITLE.

9 (B) PRIOR FILINGS.

10 THIS SUBTITLE:

11 (1) DOES NOT APPLY TO A GUARDIANSHIP CASE FILED ON OR BEFORE
12 ~~SEPTEMBER 30~~ DECEMBER 31, 2005, UNTIL GUARDIANSHIP IS GRANTED; AND

13 (2) UNLESS OTHERWISE SPECIFIED, DOES NOT APPLY TO AN ADOPTION
14 CASE FILED ON OR BEFORE ~~SEPTEMBER 30~~ DECEMBER 31, 2005.

15 COMMITTEE NOTE: This section is new and added to make the scope of this
16 new subtitle clear. This addition is not intended to limit the access to
17 records in cases filed ~~or postadoption contact agreements entered into on~~
18 ~~or before October 1, 2005~~ on or before September 30 December 31, 2005.

19 Defined terms: "Child in need of assistance" § 1-101

20 "Guardianship" § 5-301

21 "Local department" § 1-101

22 5-303. STATEMENT OF FINDINGS; PURPOSES.

23 (A) STATEMENT OF FINDINGS.

24 THE GENERAL ASSEMBLY FINDS THAT THE POLICIES AND PROCEDURES OF
25 THIS SUBTITLE ARE DESIRABLE AND SOCIALLY NECESSARY.

26 (B) PURPOSES.

27 THE PURPOSES OF THIS SUBTITLE ARE TO:

28 (1) TIMELY PROVIDE PERMANENT AND SAFE HOMES FOR CHILDREN
29 CONSISTENT WITH THEIR BEST INTERESTS;

30 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
31 THEIR PARENTS;

32 (3) ENSURE ADOPTION ONLY BY INDIVIDUALS FIT FOR THE
33 RESPONSIBILITY;

1 (4) PROTECT PARENTS FROM MAKING HURRIED OR ILL-CONSIDERED
2 AGREEMENTS TO TERMINATE PARENTAL RIGHTS;

3 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY GIVING THEM
4 INFORMATION ABOUT CHILDREN AND THEIR BACKGROUNDS; AND

5 (6) PROTECT ADOPTIVE PARENTS FROM FUTURE DISTURBANCES OF
6 THEIR RELATIONSHIPS WITH CHILDREN BY FORMER PARENTS.

7 COMMITTEE NOTE: This section is derived from former FL § 5-303.

8 In subsection (a) of this section, the former clause "that concern adoption"
9 is deleted as the findings apply to guardianship as well.

10 In subsection (b)(1) of this section, reference to "timely" provision of
11 "permanent and safe homes ... consistent with [the children's] best
12 interests" is substituted for the former reference to "stable homes that
13 protect ... safety and health", to emphasize the need for prompt resolution
14 of a case in accordance with the "best interests" standard applicable under,
15 e.g., former FL §§ 5-311(b)(2), 5-313(a), (c), and (d)(1) and (3), 5-317(g)(1),
16 5-319(f)(1) and (2) and (g)(1), and 5-323(a)(2).

17 In subsection (b)(2) and (4) of this section, the former word "natural" is
18 omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive
19 - parent can be terminated in the same manner as a biological parent's
20 can. Similarly, in subsection (b)(6) of this section, the word "former" is
21 substituted for "natural", to encompass all individuals who have at any
22 time previously been a "parent".

23 In subsection (b)(5) of this section, the word "prospective" is added to
24 modify "adoptive parents", to reflect that information is provided before
25 completion of an adoption.

26 Defined terms: "Adoptive parent" § 5-101

27 "Child" § 5-301

28 "Parent" § 5-301

29 5-304. RELATIONSHIP WITH TITLE 5, SUBTITLE 5.

30 THIS SUBTITLE IS RELATED TO AND SHOULD BE READ IN RELATION TO
31 SUBTITLE 5 OF THIS TITLE.

32 COMMITTEE NOTE: This section formerly was FL § 5-304.

33 No change is made.

34 5-305. FOREIGN ORDERS.

35 (A) "ORDER" DEFINED.

1 IN THIS SECTION, "ORDER" INCLUDES ANY ACTION THAT, UNDER THE LAWS OF
2 ANOTHER JURISDICTION, HAS THE FORCE AND EFFECT OF A COMPARABLE JUDICIAL
3 ORDER UNDER THIS SUBTITLE.

4 (B) ORDER OF ANOTHER STATE.

5 IN ACCORDANCE WITH THE UNITED STATES CONSTITUTION, THIS STATE SHALL
6 ACCORD FULL FAITH AND CREDIT TO:

7 (1) AN ORDER OF ANOTHER STATE AS TO ADOPTION OR GUARDIANSHIP
8 IN COMPLIANCE WITH THE OTHER STATE'S LAWS; AND

9 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
10 OTHER STATE'S LAWS.

11 (C) OTHER FOREIGN ORDERS.

12 AS TO A JURISDICTION OTHER THAN A STATE:

13 (1) AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN
14 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
15 EFFECT AS AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS STATE;
16 AND

17 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
18 JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL EFFECT AS TERMINATION OF
19 PARENTAL RIGHTS IN THIS STATE.

20 COMMITTEE NOTE: Subsection (a) of this section is new and added to cover
21 administrative or other nonjudicial orders or proceedings that, under the
22 laws of another jurisdiction, have the force and effect of a comparable
23 judicial order.

24 Subsections (b)(1) and (c)(1) of this section are derived from former FL §
25 5-326 but bifurcated to reflect that the full faith and credit clause is
26 applicable to "states" as provided in "the United States Constitution".
27 Accordingly, in subsections (b) and (c) of this section, respectively, the
28 defined term "state" and the reference to a "jurisdiction other than a state"
29 are substituted for the former term "jurisdiction". Subsections (b)(1) and
30 (c)(1) are revised to cover orders for "guardianship", as well.

31 Subsections (b)(2) and (c)(2) of this section are added to provide expressly
32 for recognition of foreign orders relating to termination of parental rights.

33 In subsections (b)(1) and (c)(1) of this section, references to "compliance
34 with ... laws" are added to state expressly that an order being recognized
35 must be a lawful order.

36 Also in subsections (b)(1) and (c)(1) of this section, the word "order" is
37 substituted for the former, more archaic "decree".

1 Defined terms: "Guardianship" § 5-301

2 "Includes" § 1-101

3 "Including" § 1-101

4 "Order" § 5-305

5 "State" § 1-101

6 5-306. PATERNITY.

7 (A) ~~PRESUMPTION~~ IN GENERAL.

8 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
9 FATHER IF:

10 (1) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
11 THE CHILD'S CONCEPTION;

12 (2) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
13 THE CHILD'S BIRTH;

14 (3) THE MAN IS NAMED AS THE FATHER ON THE CHILD'S BIRTH
15 CERTIFICATE AND HAS NOT SIGNED A DENIAL OF PATERNITY;

16 (4) THE CHILD'S MOTHER HAS NAMED THE MAN AS THE CHILD'S FATHER
17 AND THE MAN HAS NOT SIGNED A DENIAL OF PATERNITY;

18 (5) THE MAN HAS BEEN ADJUDICATED TO BE THE CHILD'S FATHER;

19 (6) THE MAN HAS ACKNOWLEDGED HIMSELF, ORALLY OR IN WRITING,
20 TO BE THE CHILD'S FATHER AND THE MOTHER AGREES; OR

21 (7) ON THE BASIS OF GENETIC TESTING, THE MAN IS INDICATED TO BE
22 THE CHILD'S BIOLOGICAL FATHER.

23 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

24 (1) A PETITIONER UNDER PART II OR PART III OF THIS SUBTITLE SHALL
25 GIVE A JUVENILE COURT NOTICE THAT A MAN WHO IS NOT NAMED IN THE PETITION
26 AND HAS NOT BEEN EXCLUDED AS A FATHER CLAIMS PATERNITY.

27 (2) AFTER A REQUEST OF A PARTY OR CLAIMANT AND BEFORE RULING
28 ON A PETITION UNDER PART II OR PART III OF THIS SUBTITLE, A JUVENILE COURT
29 SHALL HOLD A HEARING ON THE ISSUE OF PATERNITY.

30 COMMITTEE NOTE: Subsections (a)(1) through (6) and (b) of this section are
31 derived from former FL § 5-310.

32 Subsection (a)(7) of this section is new and added to reflect the increasing

1 reliance on the accuracy of genetic testing.

2 The introductory clause of subsection (a) of this section, "[u]nless a court
3 excludes a man as the father of a child", is substituted for the former
4 disclaimer "unless ... his nonpaternity has been established to the
5 satisfaction of the court by affidavit or testimony", which pertained only to
6 the provisions revised in subsection (a)(3) and (4) of this section, because a
7 finding by a court should pertain to all of the criteria under subsection (a)
8 of this section.

9 In subsection (b)(1) of this section, the word "man" is substituted for the
10 former reference to "an individual who does not meet the criteria for being
11 a natural father ... claims to be the natural father", for brevity and to
12 reflect that fatherhood could result from, e.g., an earlier adoption.

13 In subsection (b)(2) of this section, the limitation "before ruling on a
14 petition under ... this subtitle" is added to clarify the period during which
15 a court may act.

16 Also in subsection (b)(2) of this section, the reference to a "request of a
17 party or claimant" is substituted for the former reference to "receipt of
18 notice", to allow a claimant, as well as a petitioner, to request a hearing but
19 obviate the need for a hearing if no one requests one.

20 Defined terms: "Child" § 5-301

21 "Juvenile court" § 1-101

22 "Party" § 5-301

23 5-307. APPOINTED COUNSEL.

24 (A) PARENT.

25 (1) UNLESS THE PUBLIC DEFENDER IS REQUIRED UNDER ARTICLE 27A, §
26 4 OF THE CODE TO PROVIDE REPRESENTATION, IN A CASE UNDER PART II OR PART III
27 OF THIS SUBTITLE, A JUVENILE COURT SHALL APPOINT AN ATTORNEY TO
28 REPRESENT A PARENT WHO:

29 (I) HAS A DISABILITY THAT MAKES THE PARENT INCAPABLE OF
30 EFFECTIVELY PARTICIPATING IN THE CASE; OR

31 (II) WHEN A PETITION FOR GUARDIANSHIP OR ADOPTION IS FILED,
32 IS A MINOR.

33 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PARENT
34 INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A JUVENILE COURT, ON ITS
35 OWN MOTION OR MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE PARENT.

36 (B) CHILD.

1 (1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, IN A
2 CASE UNDER THIS SUBTITLE, A JUVENILE COURT SHALL APPOINT AN ATTORNEY TO
3 REPRESENT A CHILD.

4 (2) UNLESS A JUVENILE COURT FINDS THAT IT IS NOT IN A CHILD'S
5 BEST INTERESTS, THE JUVENILE COURT:

6 (I) IF THE ATTORNEY WHO CURRENTLY REPRESENTS THE CHILD
7 IN A PENDING CINA CASE OR GUARDIANSHIP CASE IS UNDER CONTRACT WITH THE
8 DEPARTMENT TO PROVIDE SERVICES UNDER THIS SUBSECTION, SHALL APPOINT
9 THAT ATTORNEY; AND

10 (II) IF THE ATTORNEY WHO CURRENTLY REPRESENTS THE CHILD
11 IS NOT UNDER CONTRACT WITH THE DEPARTMENT, SHALL STRIKE THE APPEARANCE
12 OF THAT ATTORNEY.

13 (C) DUAL REPRESENTATION.

14 AN ATTORNEY OR FIRM MAY REPRESENT MORE THAN ONE PARTY IN A CASE
15 UNDER THIS SUBTITLE ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT
16 ALLOW.

17 (D) COMPENSATION.

18 AN ATTORNEY APPOINTED UNDER THIS SECTION MAY BE COMPENSATED FOR
19 REASONABLE FEES, AS APPROVED BY A JUVENILE COURT.

20 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former
21 FL §§ 5-301(h) and 5-323 (a)(1)(ii) and (iii) and revised to apply only to
22 guardianship or adoption before termination of parental rights. Subsection
23 (a)(1) also is broadened by omitting the former word "natural", as the
24 parental rights of a nonbiological - i.e., adoptive - parent can be
25 terminated in the same manner as a biological parent's can, and by timing
26 parental minority from the filing of the petition rather than the time to
27 give consent.

28 Subsections (a)(2) and (b)(2) of this section are derived from former FL §
29 5-323 (c) and (a)(2), respectively.

30 Subsection (b)(1) of this section is derived from former FL § 5-323(a)(1)(i)
31 and (iv) and expanded to provide for representation of the subject of a
32 petition in every case, including adoption, without regard to consent or
33 disability.

34 Subsection (c) of this section is derived from former FL § 5-323(e) and
35 restated to cover guardianship cases and to allow dual representation only
36 if not inconsistent with the Maryland Rules of Professional Conduct.

37 Subsection (d) of this section is derived from the first sentence of former
38 FL § 5-323(d).

1 In subsection (a)(1) of this section, the reference to "Article 27A, § 4" is
2 substituted for former FL § 5-323(b), which enumerated specific hearings
3 without reference to appeals, to ensure that the substantive provisions
4 remain consistent in the event of future amendment. Art. 27A, § 4
5 provides, in relevant part, for representation of an indigent parent in
6 connection with a case under Part II or III this subtitle, extending to a
7 hearing in connection with a guardianship case, a hearing under new §
8 5-326 for which the parent has not waived the right to notice, a hearing in
9 connection with an adoption case under Part III of this subtitle, and an
10 appeal and, unless the Public Defender or court relieves an assigned
11 attorney, continuing until final disposition of the cause.

12 In subsection (a)(1)(i) of this section, the reference to "effectively
13 participating" is substituted for the former reference to "consenting and
14 effectively participating", to conform to former FL § 5-323(c) - subsection
15 (a)(2) of this section - which, by reference to "consenting and otherwise
16 effectively participating", made clear that consent is part of effective
17 participation.

18 In subsection (a)(2) of this section, the newly defined term "parent" is
19 substituted for the former references to an "individual whose consent is
20 required" and "individual", for brevity and consistency with subsection
21 (a)(1) of this section. The introductory language of subsection (b)(1) of this
22 section, "[i]n accordance with paragraph (2)", is substituted for the former
23 language "subject to paragraph (2)" and the former disclaimer "unless the
24 public defender is required to provide representation" is omitted, as
25 children are represented by the Department's contractor.

26 In subsection (b)(2) of this section, the former limitation "[i]n any action in
27 which payment for the services of a court-appointed attorney for a child is
28 the responsibility of the local department of social services" is omitted from
29 this subtitle as unnecessary, as local departments are responsible for all
30 CINA.

31 As to "minor", see Art. 1, § 24 of the Code.

32 Defined terms: "Child" § 5-301

33 "CINA case" § 1-101

34 "Department" § 5-101

35 "Disability" § 5-101

36 "Guardianship" § 5-301

37 "Juvenile court" § 1-101

38 "Parent" § 5-301

39 "Party" § 5-301

1 5-308. AGREEMENT FOR POSTADOPTION CONTACT.

2 (A) AUTHORIZED.

3 (1) A PROSPECTIVE ADOPTIVE PARENT AND PARENT OF A PROSPECTIVE
4 ADOPTEE UNDER THIS SUBTITLE MAY ENTER INTO A WRITTEN AGREEMENT TO
5 ALLOW CONTACT, AFTER THE ADOPTION, BETWEEN:

6 (I) THE PARENT OR OTHER RELATIVE OF THE ADOPTEE; AND

7 (II) THE ADOPTEE OR ADOPTIVE PARENT.

8 (2) AN ADOPTIVE PARENT AND FORMER PARENT OF AN ADOPTEE
9 UNDER THIS SUBTITLE MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW
10 CONTACT BETWEEN:

11 (I) A RELATIVE OR FORMER PARENT OF THE ADOPTEE; AND

12 (II) THE ADOPTEE OR ADOPTIVE PARENT.

13 (B) CONSTRUCTION OF AGREEMENT.

14 AN AGREEMENT MADE UNDER THIS SECTION APPLIES TO CONTACT WITH AN
15 ADOPTEE ONLY WHILE THE ADOPTEE IS A MINOR.

16 (C) DISSEMINATION; REDACTION.

17 AN INDIVIDUAL WHO PREPARES AN AGREEMENT DESCRIBED IN SUBSECTION
18 (A)(1) OF THIS SECTION:

19 (1) SHALL PROVIDE A COPY TO EACH PARTY IN A CASE PENDING AS TO
20 THE PROSPECTIVE ADOPTEE UNDER THIS SUBTITLE OR IN A CINA CASE PENDING AS
21 TO THE PROSPECTIVE ADOPTEE; AND

22 (2) IF THE AGREEMENT SO PROVIDES, SHALL REDACT IDENTIFYING
23 INFORMATION FROM THE COPIES.

24 (D) EFFECT OF NONCOMPLIANCE.

25 FAILURE TO COMPLY WITH A CONDITION OF AN AGREEMENT MADE UNDER
26 THIS SECTION IS NOT A GROUND FOR REVOKING CONSENT TO, OR SETTING ASIDE AN
27 ORDER FOR, AN ADOPTION OR GUARDIANSHIP.

28 (E) MEDIATION.

29 IF A DISPUTE AS TO AN AGREEMENT MADE UNDER THIS SECTION ARISES, A
30 COURT MAY REFER THE PARTIES TO MEDIATION TO TRY TO RESOLVE THE DISPUTE.

31 (F) ENFORCEMENT.

1 (1) A JUVENILE COURT OR OTHER COURT OF COMPETENT
 2 JURISDICTION SHALL ENFORCE A WRITTEN AGREEMENT MADE IN ACCORDANCE
 3 WITH THIS SECTION UNLESS ENFORCEMENT IS NOT IN THE ADOPTEE'S BEST
 4 INTERESTS.

5 (2) IF A PARTY MOVES IN JUVENILE COURT OR ANOTHER COURT OF
 6 COMPETENT JURISDICTION TO MODIFY A WRITTEN AGREEMENT MADE IN
 7 ACCORDANCE WITH THIS SECTION AND SATISFIES THE COURT THAT MODIFICATION
 8 IS JUSTIFIED BECAUSE AN EXCEPTIONAL CIRCUMSTANCE HAS ARISEN AND THE
 9 COURT FINDS MODIFICATION TO BE IN AN ADOPTEE'S BEST INTERESTS, THE COURT
 10 MAY MODIFY THE AGREEMENT.

11 COMMITTEE NOTE: This section is new and added to create a formal
 12 procedure for postadoption visits or other contact. This section is
 13 ~~applicable to cases filed on or before September 30, 2005 but is not~~
 14 ~~intended to preclude other agreements not intended to invalidate~~
 15 ~~agreements entered into on or before September 30 December 31, 2005.~~

16 New subsection (f)(1) provides for any court of competent jurisdiction to
 17 enforce an agreement, although the Committee believes it would be best
 18 for parties to return to a juvenile court.

19 As to "minor", see Art. 1, § 24 of the Code.

20 Defined terms: "Adoptive parent" § 5-101

21 "CINA case" § 1-101

22 "Guardianship" § 5-301

23 "Identifying information" § 5-301

24 "Juvenile court" § 1-101

25 "Parent" § 5-301

26 "Party" § 5-301

27 5-309. ASSESSMENT OF COSTS.

28 A JUVENILE COURT MAY ASSIGN COUNSEL FEES AND COSTS AMONG THE
 29 PARTIES TO A CASE AS THE JUVENILE COURT CONSIDERS APPROPRIATE AND THE
 30 PARTIES' ECONOMIC SITUATIONS ALLOW.

31 COMMITTEE NOTE: This section is derived from the second sentence of
 32 former FL § 5-323(d) but revised to allow assessment of costs, in addition
 33 to counsel fees, and to require consideration of the "economic situations" of
 34 the parties.

35 Defined terms: "Juvenile court" § 1-101

36 "Party" § 5-301

1 5-310. APPEAL.

2 A PARTY TO A CASE UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF
3 SPECIAL APPEALS:

4 (1) IN AN INTERLOCUTORY APPEAL, FROM A DENIAL OF THE RIGHT TO
5 PARTICIPATE IN A GUARDIANSHIP CASE BEFORE ENTRY OF AN ORDER FOR
6 GUARDIANSHIP;

7 (2) IN AN INTERLOCUTORY APPEAL, FROM A DENIAL OF THE RIGHT TO
8 PARTICIPATE IN AN ADOPTION CASE UNDER PART III OF THIS SUBTITLE; OR

9 (3) FROM A FINAL ORDER.

10 COMMITTEE NOTE: This section is derived from former FL § 5-330 and
11 revised to cover guardianship cases under this subtitle but limit
12 interlocutory appeals to issues as to participation in a guardianship case or
13 an adoption case before termination of parental rights.

14 In item (3) of this section, the former word "decree" is omitted as
15 unnecessary in light of the word "order".

16 Defined terms: "Guardianship" § 5-301

17 "Party" § 5-301

18 5-311. RESERVED.

19 5-312. RESERVED.

20 PART II. GUARDIANSHIP.

21 5-313. PETITION.

22 (A) REQUIRED.

23 EXCEPT AS PROVIDED IN § 5-331 OF THIS SUBTITLE, A PETITION FOR
24 GUARDIANSHIP SHALL PRECEDE A PETITION FOR ADOPTION UNDER THIS SUBTITLE.

25 (B) PETITIONER.

26 ONLY THE INDIVIDUAL WHO WOULD BE SUBJECT TO GUARDIANSHIP OR A
27 LOCAL DEPARTMENT MAY FILE A PETITION FOR GUARDIANSHIP UNDER THIS PART II
28 OF THIS SUBTITLE.

29 (C) AGE LIMIT.

30 A PETITION FOR GUARDIANSHIP OF AN INDIVIDUAL SHALL BE FILED BEFORE
31 THE INDIVIDUAL ATTAINS 18 YEARS OF AGE.

32 (D) CONTENTS.

1 A PETITIONER UNDER THIS SECTION SHALL ATTACH TO A PETITION:

2 (1) ALL WRITTEN CONSENTS FOR THE GUARDIANSHIP THAT THE
3 PETITIONER HAS;

4 (2) IF APPLICABLE:

5 (I) PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF PARENTAL
6 RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY OF A
7 STATE OR OTHER JURISDICTION; AND

8 (II) CERTIFICATION THAT THE GUARDIANSHIP OR
9 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS;
10 AND

11 (3) A NOTICE OF FILING THAT:

12 (I) STATES THE DATE ON WHICH THE PETITION WAS FILED;

13 (II) IDENTIFIES EACH PERSON WHOSE CONSENT WAS FILED WITH
14 THE PETITION;

15 (III) STATES THE OBLIGATION OF A PARENT TO GIVE THE JUVENILE
16 COURT AND LOCAL DEPARTMENT NOTICE OF EACH CHANGE IN THE PARENT'S
17 ADDRESS;

18 (IV) HAS PRINTED ON IT THE WEBSITE THAT THE DEPARTMENT
19 MAINTAINS UNDER ARTICLE 88A, § 18 OF THE CODE; AND

20 (V) INCLUDES NO IDENTIFYING INFORMATION THAT WOULD BE IN
21 VIOLATION OF AN AGREEMENT OR CONSENT.

22 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
23 5-317(a) and revised to mandate, rather than allow, a "guardianship"
24 petition and, in conjunction with new § 5-302, to apply only to a child in
25 need of assistance in the custody of a local department, rather than the
26 former "child".

27 Subsection (b) of this section is derived from former FL § 5-317(b), only as
28 it related to CINAs, so that the reference to a petition of a child in need of
29 assistance or local department is substituted for the former reference to
30 "the executive head of a child placement agency or ... child" petitioning for
31 "the agency to be granted guardianship".

32 Subsection (c) of this section is derived from former FL § 5-307(b) and
33 revised to connect minority to the filing of a guardianship petition rather
34 than the guardianship.

35 Subsection (d) of this section is new and added to mandate inclusion of the
36 requisite consents and other documentation.

1 In subsection (a) of this section, the former reference to "decree" is omitted
2 as surplusage.

3 In subsection (b) of this section, the former reference to a filing by "the
4 attorney ... on behalf of" a child is omitted as unnecessary.

5 Defined terms: "Department" § 5-101

6 "Guardianship" § 5-301

7 "Identifying information" § 5-301

8 "Juvenile court" § 1-101

9 "Local department" § 1-101

10 "Parent" § 5-301

11 "Person" § 1-101

12 "State" § 1-101

13 5-314. PARENTAL ADDRESSES.

14 A CLERK OF A JUVENILE COURT SHALL KEEP A LISTING OF EACH ADDRESS
15 GIVEN TO THE JUVENILE COURT FOR A PARENT UNDER THIS PART II OF THIS
16 SUBTITLE.

17 COMMITTEE NOTE: This section is new and added to clarify the duty of a
18 clerk of court to keep the listing required under current CJ § 3-822 beyond
19 the CINA proceeding.

20 Defined terms: "Juvenile court" § 1-101

21 "Parent" § 5-301

22 5-315. NOTICE OF FILING.

23 (A) REQUIREMENT.

24 WITHIN 5 DAYS AFTER A PETITION FOR GUARDIANSHIP OF A CHILD IS FILED
25 WITH A JUVENILE COURT, THE CLERK SHALL SEND A COPY OF THE PETITION, WITH
26 THE NOTICE OF FILING THAT WAS ATTACHED TO THE PETITION, TO:

27 (1) THE LOCAL DEPARTMENT;

28 (2) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT WAIVED THE
29 RIGHT TO NOTICE;

30 (3) EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
31 CASE; AND

32 (4) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

1 (B) METHOD.

2 NOTICE UNDER THIS SECTION SHALL BE BY FIRST CLASS MAIL.

3 (C) PARENTAL ADDRESS.

4 NOTICE UNDER THIS SECTION SHALL BE SENT TO A PARENT'S LAST ADDRESS
5 KNOWN TO THE JUVENILE COURT.

6 COMMITTEE NOTE: This section is new and added to state an express
7 requirement for the clerk to provide notice to counsel for the individual
8 who is the subject of the guardianship petition ~~and the individual's~~
9 ~~counsel~~, as well as the individual's parents and their counsel.

10 Defined terms: "Child" § 5-301

11 "CINA case" § 1-101

12 "Guardianship" § 5-301

13 "Juvenile court" § 1-101

14 "Local department" § 1-101

15 "Parent" § 5-301

16 5-316. ORDER TO SHOW CAUSE.

17 (A) REQUIREMENT.

18 PROMPTLY AFTER A PETITION FOR GUARDIANSHIP IS FILED UNDER THIS PART
19 II OF THIS SUBTITLE, A JUVENILE COURT SHALL ISSUE A SHOW CAUSE ORDER THAT
20 REQUIRES THE PARTY TO WHOM IT IS ISSUED TO RESPOND AS REQUIRED UNDER
21 THE MARYLAND RULES.

22 (B) SERVICE.

23 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO GUARDIANSHIP OF A CHILD, A
24 PETITIONER SHALL SERVE THE ORDER ON:

25 (1) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT CONSENTED
26 TO THE GUARDIANSHIP;

27 (2) EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
28 CASE; AND

29 (3) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

30 (C) METHOD.

31 SERVICE UNDER THIS SECTION SHALL BE:

1 (1) ON A PARENT, BY:

2 (I) PERSONAL SERVICE; OR

3 (II) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
4 REQUESTED; AND

5 (2) ON AN ATTORNEY, BY:

6 (I) PERSONAL SERVICE; OR

7 (II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

8 (D) PARENTAL ADDRESSES.

9 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SERVICE ON A
10 PARENT UNDER THIS SECTION SHALL BE ATTEMPTED AT:

11 (I) EACH ADDRESS IN RECORDS OF A JUVENILE COURT KEPT
12 UNDER § 3-822 OF THE COURTS ARTICLE WITHIN THE 270 DAYS IMMEDIATELY
13 PRECEDING THE FILING OF THE PETITION FOR GUARDIANSHIP;

14 (II) EACH ADDRESS IN RECORDS OF, OR KNOWN TO, THE LOCAL
15 DEPARTMENT WITHIN THE 270 DAYS IMMEDIATELY PRECEDING THE FILING OF THE
16 PETITION FOR GUARDIANSHIP;

17 (III) THE LAST ADDRESS IN RECORDS OF A CHILD SUPPORT AGENCY;
18 AND

19 (IV) EACH OTHER ADDRESS PROVIDED BY THE CHILD'S CAREGIVER.

20 (2) IF A LOCAL DEPARTMENT HAS PROOF THAT A PARENT DOES NOT
21 LIVE AT AN ADDRESS, THE LOCAL DEPARTMENT NEED NOT ATTEMPT SERVICE
22 THERE.

23 (E) REASONABLE EFFORTS TO LOCATE PARENT.

24 (1) IF A JUVENILE COURT NEVER NOTIFIED A PARENT OF THE
25 REQUIREMENTS OF § 3-822 OF THE COURTS ARTICLE AND A PETITIONER CANNOT
26 SERVE THE PARENT AT ANY OF THE ADDRESSES LISTED IN SUBSECTION (D) OF THIS
27 SECTION, THE PETITIONER SHALL MAKE A REASONABLE, GOOD FAITH EFFORT TO
28 IDENTIFY AN ADDRESS FOR THE PARENT AND SERVE THE PARENT AT THAT
29 ADDRESS.

30 (2) A JUVENILE COURT SHALL FIND THAT A PETITIONER HAS MET THE
31 REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION IF THE PETITIONER
32 SHOWS, BY AFFIDAVIT OR TESTIMONY, THAT THE PETITIONER MADE INQUIRIES
33 AFTER OR WITHIN THE 180 DAYS IMMEDIATELY PRECEDING THE FILING OF THE
34 PETITION FOR GUARDIANSHIP:

35 (I) WITH THE STATE MOTOR VEHICLE ADMINISTRATION;

1 (II) WITH THE DEPARTMENT;

2 (III) WITH THE STATE DEPARTMENT OF PUBLIC SAFETY AND
3 CORRECTIONAL SERVICES, INCLUDING ITS DIVISION OF PAROLE AND PROBATION;

4 (IV) WITH THE DETENTION CENTER OF THE COUNTY WHERE THE
5 PETITION IS FILED;

6 (V) WITH THE JUVENILE COURT;

7 (VI) IF THE LOCAL DEPARTMENT IS AWARE THAT THE PARENT HAS
8 RECEIVED BENEFITS FROM A PARTICULAR SOCIAL SERVICES ENTITY WITHIN THE
9 180 DAYS IMMEDIATELY PRECEDING THE FILING OF THE PETITION, WITH THAT
10 ENTITY;

11 (VII) IF THE LOCAL DEPARTMENT IS AWARE THAT THE PARENT HAS
12 BEEN CONFINED IN A PARTICULAR DETENTION FACILITY WITHIN THE 180 DAYS
13 IMMEDIATELY PRECEDING THE FILING OF THE PETITION, WITH THAT FACILITY;

14 (VIII) WITH THE CHILD'S CAREGIVER;

15 (IX) IF THE PETITIONER IS ABLE TO CONTACT THE CHILD'S OTHER
16 PARENT, WITH THAT PARENT;

17 (X) IF THE PETITIONER IS ABLE TO CONTACT KNOWN MEMBERS OF
18 THE PARENT'S IMMEDIATE FAMILY, WITH THOSE MEMBERS; AND

19 (XI) IF THE PETITIONER IS ABLE TO CONTACT THE PARENT'S
20 CURRENT OR LAST KNOWN EMPLOYER, WITH THAT EMPLOYER.

21 (3) A JUVENILE COURT SHALL CONSIDER AN INQUIRY UNDER THIS
22 SUBSECTION SUFFICIENT IF MADE BY SEARCHING THE COMPUTER FILES OF, OR
23 MAKING AN INQUIRY BY FIRST-CLASS MAIL TO, A GOVERNMENTAL UNIT OR PERSON
24 LISTED IN THIS SUBSECTION.

25 (4) A JUVENILE COURT SHALL CONSIDER FAILURE TO RECEIVE A
26 RESPONSE WITHIN 30 DAYS AFTER THE PETITIONER MAELS AN INQUIRY UNDER THIS
27 SUBSECTION TO BE A NEGATIVE RESPONSE TO THE INQUIRY.

28 (F) PUBLICATION.

29 (1) IF A JUVENILE COURT IS SATISFIED, BY AFFIDAVIT OR TESTIMONY,
30 THAT A PETITIONER MET THE REQUIREMENTS OF SUBSECTION (D) AND, IF
31 APPLICABLE, SUBSECTION (E) OF THIS SECTION BUT COULD NOT EFFECT SERVICE
32 ON A PARENT, THE JUVENILE COURT SHALL ORDER SERVICE THROUGH NOTICE BY
33 PUBLICATION AS TO THAT PARENT.

34 (2) NOTICE UNDER THIS SUBSECTION SHALL CONSIST OF
35 SUBSTANTIALLY THE FOLLOWING STATEMENT:

36 TO: (FATHER'S NAME) TO: (MOTHER'S NAME) TO: UNKNOWN PARENT

1 "YOU ARE HEREBY NOTIFIED THAT A GUARDIANSHIP CASE HAS BEEN FILED IN
 2 THE CIRCUIT COURT FOR (COUNTY NAME), CASE NO. (NUMBER). ALL PERSONS WHO
 3 BELIEVE THEMSELVES TO BE PARENTS OF A (MALE OR FEMALE) CHILD BORN ON
 4 (DATE OF BIRTH) IN (CITY, STATE) TO (MOTHER'S AND FATHER'S NAMES AND DATES
 5 OF BIRTH) SHALL FILE A WRITTEN RESPONSE. A COPY OF THE PETITION SHOW
 6 CAUSE ORDER MAY BE OBTAINED FROM THE JUVENILE CLERK'S OFFICE AT
 7 (ADDRESS) AND (TELEPHONE NUMBER). IF YOU DO NOT FILE A WRITTEN OBJECTION
 8 BY (DEADLINE), YOU WILL HAVE AGREED TO THE PERMANENT LOSS OF YOUR
 9 PARENTAL RIGHTS TO THIS CHILD."

10 (3) SERVICE UNDER THIS SUBSECTION SHALL BE BY:

11 (I) PUBLICATION AT LEAST ONCE IN ONE OR MORE NEWSPAPERS
 12 IN GENERAL CIRCULATION IN THE COUNTY WHERE THE PARENT LAST RESIDED OR,
 13 IF UNKNOWN, WHERE THE PETITION IS FILED; AND

14 (II) POSTING FOR AT LEAST 30 DAYS ON A WEBSITE OF THE
 15 DEPARTMENT.

16 COMMITTEE NOTE: Subsection (a) of this section is new and added to state
 17 expressly the duty of a court to issue a show cause order.

18 Subsection (b) of this section is derived from former FL § 5-322(a)(3) and,
 19 as it related to guardianship, (1)(i) and (ii)2 and the introductory language
 20 of (b), and revised to reflect that a petitioner's duty begins "[o]n issuance"
 21 of a show cause order by a court and to require service on a parent's last
 22 attorney of record.

23 Subsection (c) of this section is derived from the reference to "certified mail
 24 or private process" in the introductory language of former FL § 5-322(b),
 25 and revised to clarify that, when certified mail is used, as to a parent,
 26 "restricted delivery, return receipt requested" and, as to an attorney,
 27 "return receipt requested" are required and to delete the inconsistent
 28 reference to "both certified mail and private process", in former FL §
 29 5-322(c)(2).

30 Subsection (d)(1)(i) and (ii) of this section is derived from former FL §
 31 5-322(b)(1) and (2)(i).

32 Subsection (d)(1)(iii) and (iv) of this section is new and added to encompass
 33 other common sources of current address.

34 Subsection (d)(2) of this section is new and added to state conditions under
 35 which service need not be attempted.

36 Subsection (e)(1) of this section is derived from former FL § 5-322(b)(2)(ii)
 37 and revised to state expressly that a petitioner must make reasonable
 38 efforts to locate and serve a parent but only if service is not otherwise
 39 effected and the parent was not notified at any time, not just during the
 40 CINA hearing, of the duty to keep a current address on file with a court.

1 Subsection (e)(2)(i), (iii) through (vii), and (ix) through (xi), (3), and (4) of
2 this section is derived from former FL § 5-322(e)(1)(i) and (iii) through
3 (viii).

4 Subsection (e)(2)(ii) of this section is substituted for former FL §
5 5-322(e)(1)(ii), which referred to a local department.

6 Subsection (e)(2)(viii) of this section is new and added for completeness.

7 Subsection (f)(1) and (3)(i) of this section is derived from former FL §
8 5-322(c)(2) and (3).

9 Subsection (f)(2) of this section is new and added to give a clerk a statutory
10 form that will afford adequate notice.

11 Subsection (f)(3)(ii) of this section is new and added to afford an additional
12 means of notice by publication on a website.

13 In subsections (b)(1), (d)(1), and (e)(1) of this section, the former word
14 "natural" is omitted, to reflect that the parental rights of a nonbiological -
15 i.e., adoptive - parent can be terminated in the same manner as a
16 biological parent's can.

17 In subsection (b)(1) of this section, the reference to a "paren[t] who has not
18 consented" is substituted, for brevity, for the reference, in former FL §
19 5-322(a)(1)(i), to the "person whose consent is required" and for former FL
20 § 5-322(a)(2), which exempted persons having consented already.

21 Also in subsection (b)(1) of this section, the former limitation as to "a
22 petition ... filed after ... the child has been adjudicated to be a child in need
23 of assistance" is omitted, and references to a "child" and the "CINA case"
24 are substituted for the former references to a "minor child" and "juvenile
25 proceeding", to conform to the revised scope of this subtitle. The similar
26 limitation and the former language "[f]or a petition filed by a local
27 department of social services" also are omitted in subsections (e)(1) and
28 (f)(1) of this section.

29 In subsection (b)(3) of this section, reference to the "last attorney of record"
30 is substituted for the former reference to the attorney "who represented" a
31 child, to ensure service on the most recent attorney.

32 Subsection (d)(1) of this section is revised to require attempt at service, at
33 addresses available from all, rather than just one, of the listed sources, for
34 a parent whether present or not present at a CINA hearing. Accordingly,
35 the requirement in former FL § 5-322(a)(3) for attempted service at the
36 "last known address" of "each person whose consent is required" is omitted
37 as surplusage.

38 In subsection (d)(1)(i) and (ii) of this section, the references to "270 days"
39 are substituted for the former 6-month period, to extend the period and to

1 allow easier calculation of the period. Similarly, in the introductory
2 language of subsection (e)(2) of this section, reference to "180 days" is
3 substituted for the former 6-month period, while in subsection (e)(2)(vi)
4 and (vii), references to "180 days" are substituted for former 9-month
5 periods.

6 Subsection (e)(2) of this section is revised in the active voice to state
7 expressly that which only is implied in former FL § 5-322(e)(1) - that a
8 petitioner has the onus to make, and satisfy a court as to, inquiries - but
9 the former limitation, "[f]or a petition filed by a local department of social
10 services", is omitted, making the onus applicable to a CINA petitioner as
11 well.

12 Subsection (e)(2)(iii) of this section is revised to "includ[e]" contact with the
13 "Division of Parole and Probation" as the Division is part of the State
14 Department of Public Safety and Correctional Services.

15 In subsection (f)(1) and the introductory clause of (e)(2) of this section, the
16 general references to "requirements" of referenced provisions are
17 substituted for the former references to "a reasonable, good faith effort ...
18 to identify the last known address of the parent" and "reasonable good
19 faith efforts to serve ... the parent at the addresses specified in ... this
20 section", for brevity.

21 In subsection (e)(2)(iv) of this section, the defined term "county" is
22 substituted for the former reference to a "local jurisdiction", for brevity and
23 consistency.

24 In subsection (e)(2)(v) of this section, the former reference to "the
25 jurisdiction in which the petition is filed" is omitted as unnecessary in light
26 of the use of the article "the".

27 Subsection (e)(3) and (4) of this section is revised in the active voice to state
28 expressly that which only was implied in former FL § 5-322(e)(2)(i) - that
29 a court has the onus to make a determination as to sufficiency of an
30 inquiry according to the presumption.

31 In subsection (e)(3) of this section, reference to a "governmental unit or
32 person" is substituted for the former references to "an identified agency"
33 and "the agency or person", to state expressly that governmental units are
34 covered - private "agencies" being within the defined term "person" - and
35 to reflect that a person, such as a private agency, may have computer
36 records.

37 As to a newspaper in general circulation, *see* Art. 1, § 28 of the Code.

38 Defined terms: "Caregiver" § 5-301

39 "Child" § 5-301

40 "CINA case" § 1-101

- 1 "County" § 1-101
- 2 "Department" § 5-101
- 3 "Guardianship" § 5-301
- 4 "Including" § 1-101
- 5 "Juvenile court" § 1-101
- 6 "Local department" § 1-101
- 7 "Parent" § 5-301
- 8 "Party" § 5-301
- 9 "Person" § 1-101

10 5-317. INVESTIGATIONS.

11 IN ADDITION TO ANY INVESTIGATION REQUIRED UNDER § 5-323(C) OF THIS
12 SUBTITLE, A JUVENILE COURT MAY ORDER A NEUTRAL GOVERNMENTAL UNIT OR
13 NEUTRAL PERSON TO CARRY OUT ANY INVESTIGATION THAT THE JUVENILE COURT
14 CONSIDERS NECESSARY TO DETERMINE A CHILD'S BEST INTERESTS IN RULING ON A
15 PETITION FOR GUARDIANSHIP.

16 COMMITTEE NOTE: This section is derived from the references to
17 investigation in former FL § 5-317(c)(1) and (g)(1).

18 The introductory clause, "[i]n addition to ...", is substituted for the former
19 "[e]xcept as provided", to make clear that an investigation under this
20 section supplements mandated investigations.

21 The reference to investigation by a "neutral governmental unit or neutral
22 person" is added to ensure the court is provided with impartial
23 information.

24 The phrase "to determine a child's best interests" is added to state the
25 standard expressly.

26 The word "ruling" is substituted for the former reference to "grant[ing] a
27 decree awarding guardianship", to reflect that the ruling may deny
28 guardianship.

29 Defined terms: "Child" § 5-301

30 "Guardianship" § 5-301

31 "Juvenile court" § 1-101

32 "Person" § 1-101

1 5-318. HEARINGS ON GUARDIANSHIP PETITION.

2 (A) CONSENSUAL GUARDIANSHIP.

3 (1) IN ADDITION TO ANY HEARING REQUIRED UNDER THIS SUBSECTION
4 OR § 5-306(B)(2) OF THIS SUBTITLE, A JUVENILE COURT MAY HOLD A HEARING
5 BEFORE ENTERING A GUARDIANSHIP ORDER UNDER § 5-320(A)(1) OF THIS SUBTITLE
6 OR OTHERWISE RULING ON A GUARDIANSHIP PETITION.

7 (2) IF A PARTY BECOMES AWARE, BEFORE A JUVENILE COURT RULES ON
8 A GUARDIANSHIP PETITION, THAT A CONDITION OF CONSENT UNDER § 5-320(B) OF
9 THIS SUBTITLE MAY NOT BE FULFILLED:

10 (I) THE PARTY PROMPTLY SHALL:

11 1. FILE NOTICE WITH THE JUVENILE COURT; AND

12 2. GIVE NOTICE TO ALL OF THE OTHER PARTIES;

13 (II) THE JUVENILE COURT SHALL SCHEDULE A HEARING TO OCCUR
14 WITHIN 30 DAYS AFTER THE FILING OF THE NOTICE; AND

15 (III) IF THE PARTY WHOSE CONDITION CANNOT BE FULFILLED
16 FAILS TO ENTER INTO A NEW CONSENT, THE JUVENILE COURT SHALL SET THE CASE
17 IN FOR A PROMPT TRIAL ON THE MERITS OF THE PETITION.

18 (B) NONCONSENSUAL GUARDIANSHIP.

19 BEFORE A JUVENILE COURT GRANTS GUARDIANSHIP UNDER § 5-320(A)(2) OF
20 THIS SUBTITLE, THE JUVENILE COURT SHALL HOLD A TRIAL ON THE MERITS OF THE
21 PETITION.

22 (C) NOTICE OF HEARINGS.

23 BEFORE A TRIAL OR OTHER HEARING UNDER THIS SECTION, A JUVENILE
24 COURT SHALL GIVE NOTICE TO ALL OF THE PARTIES.

25 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from the
26 references to hearings in former FL § 5-317(c)(1) and (g)(1).

27 Subsection (a)(2) of this section is new and added to reflect the addition of
28 provisions for conditional consent in the referenced new § 5-320(b).

29 Subsection (b) of this section is new and added to emphasize the need for
30 timely resolution of nonconsensual guardianship cases.

31 Subsection (c) is new and added to state expressly the requirement for
32 notice of hearings.

33 The introductory clause of subsection (a)(1), "[i]n addition to ...", is
34 substituted for the former "[e]xcept as provided", to make clear that a

1 hearing under this subsection supplements mandated hearings.

2 In subsection (a)(1) of this section, the reference to "entering a
3 guardianship order ... or otherwise ruling on a guardianship petition" is
4 substituted for the former reference to "grant[ing] a decree awarding
5 guardianship", to reflect that the ruling may deny guardianship.

6 Defined terms: "Guardianship" § 5-301

7 "Juvenile court" § 1-101

8 "Party" § 5-301

9 5-319. TIME LIMITS.

10 (A) MAXIMUM LIMITS.

11 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A JUVENILE COURT SHALL
12 RULE ON A GUARDIANSHIP PETITION:

13 (1) WITHIN 180 DAYS AFTER THE PETITION IS FILED; AND

14 (2) WITHIN 45 DAYS AFTER THE EARLIER OF:

15 (I) RECEIPT OF ALL OF THE CONSENTS REQUIRED UNDER THIS
16 PART II OF THIS SUBTITLE; OR

17 (II) TRIAL ON THE MERITS.

18 (B) MINIMUM LIMIT.

19 A JUVENILE COURT MAY NOT ENTER AN ORDER FOR GUARDIANSHIP OF A
20 CHILD UNDER THIS SUBTITLE BEFORE THE LATER OF:

21 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD;

22 (2) EXPIRATION OF THE TIME SET FOR REVOCATION OF CONSENT, AND
23 NOT WAIVED, UNDER § 5-321(C) OF THIS SUBTITLE; OR

24 (3) EXPIRATION OF THE TIME TO RESPOND TO THE SHOW CAUSE ORDER
25 ISSUED UNDER § 5-316 OF THIS SUBTITLE.

26 COMMITTEE NOTE: Subsections (a)(1) and (b)(1) and (2) of this section are
27 derived from former FL §§ 5-317(d) and 5-324, as they related to CINAs.

28 Subsection (a)(2) of this section is new and added to provide an alternative
29 period based on the filing of consents or trial.

30 Subsection (b)(3) of this section is new and added to reflect new § 5-316,
31 which requires issuance of a show cause order.

32 Defined terms: "Child" § 5-301

1 "Guardianship" § 5-301

2 "Juvenile court" § 1-101

3 5-320. AUTHORITY TO GRANT GUARDIANSHIP.

4 (A) CONSENT AND ACQUIESCENCE OR BEST INTERESTS.

5 A JUVENILE COURT MAY GRANT GUARDIANSHIP OF A CHILD ONLY IF:

6 (1) (I) THE CHILD DOES NOT OBJECT;

7 (II) THE LOCAL DEPARTMENT:

8 1. FILED THE PETITION; OR

9 2. DID NOT OBJECT TO ANOTHER PARTY FILING THE
10 PETITION; AND

11 (III) 1. EACH OF THE CHILD'S LIVING PARENTS CONSENTS:

12 A. IN WRITING;

13 B. KNOWINGLY AND VOLUNTARILY, ON THE RECORD
14 BEFORE THE JUVENILE COURT; OR

15 C. BY FAILURE TO FILE A TIMELY NOTICE OF OBJECTION
16 AFTER BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS
17 SUBTITLE; OR

18 2. IF AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY
19 OF A STATE OR OTHER JURISDICTION HAS GRANTED A GOVERNMENTAL UNIT OR
20 PERSON OTHER THAN A PARENT THE POWER TO CONSENT TO ADOPTION, THE UNIT
21 OR PERSON CONSENTS; OR

22 (2) IN ACCORDANCE WITH § 5-323 OF THIS SUBTITLE, THE JUVENILE
23 COURT FINDS TERMINATION OF PARENTAL RIGHTS TO BE IN THE CHILD'S BEST
24 INTERESTS WITHOUT CONSENT OTHERWISE REQUIRED UNDER THIS SECTION OR
25 OVER THE CHILD'S OBJECTION.

26 (B) CONDITIONAL CONSENT OR ACQUIESCENCE.

27 A GOVERNMENTAL UNIT OR PERSON:

28 (1) MAY CONDITION CONSENT OR ACQUIESCENCE ON ADOPTION INTO A
29 SPECIFIC FAMILY THAT A LOCAL DEPARTMENT APPROVES FOR THE PLACEMENT;
30 BUT

31 (2) MAY NOT CONDITION CONSENT OR ACQUIESCENCE ON ANY FACTOR
32 OTHER THAN PLACEMENT INTO A SPECIFIC FAMILY.

1 COMMITTEE NOTE: Subsection (a)(1)(i) and (ii) of this section is new and
2 added to clarify the child's party status and a local department's role as to
3 filing petitions.

4 Subsection (a)(1)(iii)1 of this section is derived from former FL §
5 5-317(c)(2), as it related to CINAs, and revised to delineate the methods by
6 which consent may be given in addition to failure to make timely objection.
7 Subsection (a)(1)(iii)1 is not meant to change the current meaning of
8 "deemed consent".

9 Subsection (a)(1)(iii)2 of this section is new and added to recognize actions
10 by other jurisdictions, in accordance with former FL §§ 5-313.1 and 5-326
11 - new § 5-305.

12 Subsection (a)(2) of this section is derived from the introductory language
13 of former FL § 5-313(a).

14 Subsection (b) of this section is new and added to provide expressly for
15 conditional consent or acquiescence in conjunction with new §§
16 5-318(a)(2)(iii) and 5-327, which state the effect of noncompliance. The
17 requirement for approval by a local department should not be construed to
18 require approval before entry of a guardianship order.

19 In subsection (a)(1)(iii)1 of this section, the former reference to a "natural"
20 parent is deleted, to reflect that the parental rights of a nonbiological - i.e.,
21 adoptive - parent can be terminated in the same manner as a biological
22 parent's can.

23 Defined terms: "Child" § 5-301

24 "Guardianship" § 5-301

25 "Juvenile court" § 1-101

26 "Local department" § 1-101

27 "Parent" § 5-301

28 "Party" § 5-301

29 "Person" § 1-101

30 "State" § 1-101

31 5-321. CONSENT.

32 (A) CONTENTS AND ATTACHMENTS.

33 (1) CONSENT OF A PARENT TO GUARDIANSHIP MAY INCLUDE A WAIVER
34 OF THE RIGHT TO NOTICE OF:

35 (I) THE FILING OF A PETITION UNDER THIS SUBTITLE; AND

1 (II) A HEARING UNDER THIS SUBTITLE.

2 (2) CONSENT TO GUARDIANSHIP ENTERED INTO BEFORE A JUDGE ON
3 THE RECORD SHALL INCLUDE A WAIVER OF A REVOCATION PERIOD.

4 (3) CONSENT OF A PARTY TO GUARDIANSHIP IS NOT VALID UNLESS:

5 (I) THE CONSENT IS GIVEN IN A LANGUAGE THAT THE PARTY
6 UNDERSTANDS;

7 (II) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH, THE
8 CONSENT:

9 1. IS GIVEN BEFORE A JUDGE ON THE RECORD; OR

10 2. IS ACCOMPANIED BY THE AFFIDAVIT OF A TRANSLATOR
11 STATING THAT THE TRANSLATION OF THE DOCUMENT OF CONSENT IS ACCURATE;

12 (III) THE PARTY HAS RECEIVED WRITTEN NOTICE OR ON THE
13 RECORD NOTICE BEFORE A JUDGE OF:

14 1. THE REVOCATION PROVISIONS IN SUBSECTIONS (A)(2)
15 AND (C)(1) OF THIS SECTION;

16 2. THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER
17 § 5-359 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, PARENTS, AND
18 SIBLINGS UNDER SUBTITLE 4B OF THIS TITLE; AND

19 3. THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-359
20 OF THIS SUBTITLE;

21 (IV) IF SIGNED AFTER COUNSEL ENTERS AN APPEARANCE FOR A
22 PARENT, THE CONSENT IS ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL STATING
23 THAT:

24 1. COUNSEL REVIEWED THE CONSENT WITH THE PARENT;
25 AND

26 2. THE PARENT CONSENTS KNOWINGLY AND VOLUNTARILY;
27 AND

28 (V) THE CONSENT IS ACCOMPANIED BY AN AFFIDAVIT OF
29 COUNSEL APPOINTED UNDER § 5-307(A) OF THIS SUBTITLE STATING THAT A PARENT
30 WHO IS A MINOR OR HAS A DISABILITY CONSENTS KNOWINGLY AND VOLUNTARILY.

31 (B) COPY.

32 (1) WHENEVER A LOCAL DEPARTMENT RECEIVES CONSENT TO
33 GUARDIANSHIP OF AN INDIVIDUAL BEFORE A GUARDIANSHIP PETITION IS FILED,
34 THE LOCAL DEPARTMENT PROMPTLY SHALL:

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1 (I) FILE THE CONSENT IN THE INDIVIDUAL'S CINA CASE; AND

2 (II) SERVE A COPY OF THE CONSENT ON:

3 1. EACH LIVING PARENT OF THE INDIVIDUAL;

4 2. THE PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
5 CASE; AND

6 3. THE INDIVIDUAL'S LAST ATTORNEY OF RECORD IN THE
7 CINA CASE.

8 (2) WHENEVER A PARTY OBTAINS CONSENT TO GUARDIANSHIP AFTER A
9 GUARDIANSHIP PETITION IS FILED, THE PARTY PROMPTLY SHALL:

10 (I) FILE THE CONSENT WITH THE JUVENILE COURT IN WHICH THE
11 PETITION IS PENDING; AND

12 (II) SERVE A COPY OF THE CONSENT ON EACH OTHER PARTY.

13 (C) REVOCATION PERIOD; WAIVER.

14 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY
15 REVOKE CONSENT TO GUARDIANSHIP ANY TIME WITHIN THE LATER OF:

16 (I) 30 DAYS AFTER THE PERSON SIGNS THE CONSENT; OR

17 (II) 30 DAYS AFTER THE CONSENT IS FILED AS REQUIRED UNDER
18 THIS SECTION.

19 (2) CONSENT TO GUARDIANSHIP UNDER SUBSECTION (A)(2) OF THIS
20 SECTION IS IRREVOCABLE.

21 (D) INVALIDATION OF CONDITIONAL CONSENT OR ACQUIESCENCE.

22 IF, AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION
23 OF A CHILD, THE JUVENILE COURT FINDS THAT A CONDITION FOR GUARDIANSHIP
24 WILL NOT BE FULFILLED, THE CONSENT OR ACQUIESCENCE BECOMES INVALID.

25 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former
26 FL § 5-319(d)(1) and, as it related to guardianships, § 5-322(a)(2).

27 Subsections (a)(2) and (c)(2) of this section are new and added to require a
28 waiver if consent is given on-the-record.

29 Subsection (a)(3)(i) and (ii) of this section is new and added to ensure that
30 consent is given knowingly, by ensuring that the individual consenting
31 understands the consent being given. As to interpreters in connection with
32 on the record consent, see Md. Rule 16-819.

33 Subsection (a)(3)(iii) of this section is derived from former FL § 5-314(a),

1 as it related to guardianship.

2 Subsection (a)(3)(iv) of this section is new and added to provide for
3 counsel's affidavit as to the voluntariness of consent.

4 Subsection (a)(3)(v) of this section is derived from former FL § 5-314(b), as
5 it related to guardianship, and the substance of former FL § 5-301(h) and
6 revised to apply to disabled, as well as minor, parents.

7 Subsection (b) of this section is new and added to ensure that documents
8 relating to consent are integrated into the appropriate court file.

9 Subsection (c)(1) of this section is derived from former FL § 5-317(e) and
10 revised to provide an alternative deadline based on the filing date of the
11 consent.

12 Subsection (d) of this section is new and added to facilitate compliance
13 with new § 5-320(b).

14 In subsection (a)(1)(ii) of this section, the former reference to a "natural"
15 parent is deleted, to reflect that the parental rights of a nonbiological - i.e.,
16 adoptive - parent can be terminated in the same manner as a biological
17 parent's can.

18 As to "minor", *see* Art. 1, § 24 of the Code.

19 Defined terms: "Child" § 5-301

20 "CINA case" § 1-101

21 "Disability" § 5-101

22 "Guardianship" § 5-301

23 "Includes" § 1-101

24 "Including" § 1-101

25 "Juvenile court" § 1-101

26 "Local department" § 1-101

27 "Parent" § 5-301

28 "Party" § 5-301

29 "Person" § 1-101

30 5-322. GRANT OF GUARDIANSHIP - CONSENSUAL.

31 (A) AUTHORITY.

1 IF ALL CONSENTS FOR GUARDIANSHIP OF A CHILD HAVE BEEN GIVEN IN
2 ACCORDANCE WITH THIS SUBTITLE AND THE CHILD HAS NOT OBJECTED, A
3 JUVENILE COURT MAY ENTER AN ORDER FOR GUARDIANSHIP.

4 (B) NOTICE.

5 (1) WITHIN 5 DAYS AFTER ENTRY OF AN ORDER UNDER THIS SECTION, A
6 JUVENILE COURT SHALL GIVE NOTICE OF THE ORDER TO EACH PARTY OR, IF
7 REPRESENTED, COUNSEL.

8 (2) NOTICE UNDER THIS SUBSECTION SHALL BE BY FIRST-CLASS MAIL.

9 (3) NOTICE TO A PARTY UNDER THIS SUBSECTION SHALL BE SENT TO
10 THE PARTY'S LAST ADDRESS KNOWN TO THE JUVENILE COURT.

11 COMMITTEE NOTE: This section is new and added to set forth the manner of
12 resolving consensual guardianships.

13 Defined terms: "Child" § 5-301

14 "Guardianship" § 5-301

15 "Juvenile court" § 1-101

16 "Party" § 5-301

17 5-323. GRANT OF GUARDIANSHIP - NONCONSENSUAL.

18 (A) "DRUG" DEFINED.

19 IN THIS SECTION, "DRUG" MEANS COCAINE, HEROIN, OR A DERIVATIVE OF
20 COCAINE OR HEROIN.

21 (B) AUTHORITY.

22 IF, AFTER CONSIDERATION OF FACTORS AS REQUIRED IN THIS SECTION, A
23 JUVENILE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
24 TERMINATING THE RIGHTS OF A PARENT IS IN A CHILD'S BEST INTERESTS, THE
25 JUVENILE COURT MAY GRANT GUARDIANSHIP OF THE CHILD WITHOUT CONSENT
26 OTHERWISE REQUIRED UNDER THIS SUBTITLE AND OVER THE CHILD'S OBJECTION.

27 (C) EXEMPTION FROM CONSIDERATIONS.

28 A JUVENILE COURT NEED NOT CONSIDER ANY FACTOR LISTED IN SUBSECTION
29 (D) OF THIS SECTION IN DETERMINING A CHILD'S BEST INTERESTS IF, AFTER A
30 THOROUGH INVESTIGATION BY A LOCAL DEPARTMENT, THE JUVENILE COURT FINDS
31 THAT:

32 (1) THE IDENTITIES OF THE CHILD'S PARENTS ARE UNKNOWN; AND

1 (2) DURING THE 60 DAYS IMMEDIATELY AFTER THE CHILD'S
2 ADJUDICATION AS A CHILD IN NEED OF ASSISTANCE, NO ONE HAS CLAIMED TO BE
3 THE CHILD'S PARENT.

4 (D) CONSIDERATIONS.

5 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN RULING ON A
6 PETITION FOR GUARDIANSHIP OF A CHILD, A JUVENILE COURT SHALL GIVE PRIMARY
7 CONSIDERATION TO THE HEALTH AND SAFETY OF THE CHILD AND CONSIDERATION
8 TO ALL OTHER FACTORS NEEDED TO DETERMINE WHETHER TERMINATING A
9 PARENT'S RIGHTS IS IN THE CHILD'S BEST INTERESTS, INCLUDING:

10 (1) (I) ALL SERVICES OFFERED TO THE PARENT BEFORE THE CHILD'S
11 PLACEMENT, WHETHER OFFERED BY A LOCAL DEPARTMENT, ANOTHER AGENCY, OR
12 A PROFESSIONAL;

13 (II) THE EXTENT, NATURE, AND TIMELINESS OF SERVICES
14 OFFERED BY A LOCAL DEPARTMENT TO FACILITATE REUNION OF THE CHILD AND
15 PARENT; AND

16 (III) THE EXTENT TO WHICH A LOCAL DEPARTMENT AND PARENT
17 HAVE FULFILLED THEIR OBLIGATIONS UNDER A SOCIAL SERVICES AGREEMENT, IF
18 ANY;

19 (2) THE RESULTS OF THE PARENT'S EFFORT TO ADJUST THE PARENT'S
20 CIRCUMSTANCES, CONDITION, OR CONDUCT TO MAKE IT IN THE CHILD'S BEST
21 INTERESTS FOR THE CHILD TO BE RETURNED TO THE PARENT'S HOME, INCLUDING:

22 (I) THE EXTENT TO WHICH THE PARENT HAS MAINTAINED
23 REGULAR CONTACT WITH:

24 1. THE CHILD;

25 2. THE LOCAL DEPARTMENT TO WHICH THE CHILD IS
26 COMMITTED; AND

27 3. IF FEASIBLE, THE CHILD'S CAREGIVER;

28 (II) THE PARENT'S CONTRIBUTION TO A REASONABLE PART OF THE
29 CHILD'S CARE AND SUPPORT, IF THE PARENT IS FINANCIALLY ABLE TO DO SO;

30 (III) THE EXISTENCE OF A PARENTAL DISABILITY THAT MAKES THE
31 PARENT CONSISTENTLY UNABLE TO CARE FOR THE CHILD'S IMMEDIATE AND
32 ONGOING PHYSICAL OR PSYCHOLOGICAL NEEDS FOR LONG PERIODS OF TIME; AND

33 (IV) WHETHER ADDITIONAL SERVICES WOULD BE LIKELY TO BRING
34 ABOUT A LASTING PARENTAL ADJUSTMENT SO THAT THE CHILD COULD BE
35 RETURNED TO THE PARENT WITHIN AN ASCERTAINABLE TIME NOT TO EXCEED 18
36 MONTHS FROM THE DATE OF PLACEMENT UNLESS THE JUVENILE COURT MAKES A

1 SPECIFIC FINDING THAT IT IS IN THE CHILD'S BEST INTERESTS TO EXTEND THE
2 TIME FOR A SPECIFIED PERIOD;

3 (3) WHETHER:

4 (I) THE PARENT HAS ABUSED OR NEGLECTED THE CHILD OR A
5 MINOR AND THE SERIOUSNESS OF THE ABUSE OR NEGLECT;

6 (II) 1. ~~AS EVIDENCED BY AN APPROPRIATE TOXICOLOGY TEST~~
7 ~~OF THE MOTHER OR CHILD;~~

8 A. ON ADMISSION TO A HOSPITAL FOR THE CHILD'S
9 DELIVERY, THE MOTHER WAS TESTED POSITIVE FOR A DRUG AS EVIDENCED BY A
10 POSITIVE TOXICOLOGY TEST; OR

11 B. ~~THE CHILD WAS BORN EXPOSED TO A DRUG UPON THE~~
12 BIRTH OF THE CHILD. THE CHILD TESTED POSITIVE FOR A DRUG AS EVIDENCED BY A
13 POSITIVE TOXICOLOGY TEST; AND

14 2. THE MOTHER REFUSED THE LEVEL OF DRUG TREATMENT
15 RECOMMENDED BY A QUALIFIED ADDICTIONS SPECIALIST, AS DEFINED IN § 5-1201
16 OF THIS TITLE, OR BY A PHYSICIAN OR PSYCHOLOGIST, AS DEFINED IN THE HEALTH
17 OCCUPATIONS ARTICLE;

18 (III) THE PARENT SUBJECTED THE CHILD TO:

19 1. CHRONIC ABUSE;

20 2. CHRONIC AND LIFE-THREATENING NEGLECT;

21 3. SEXUAL ABUSE; OR

22 4. TORTURE;

23 (IV) THE PARENT HAS BEEN CONVICTED, IN ANY STATE OR ANY
24 COURT OF THE UNITED STATES, OF:

25 1. A CRIME OF VIOLENCE AGAINST:

26 A. A MINOR OFFSPRING OF THE PARENT;

27 B. THE CHILD; OR

28 C. ANOTHER PARENT OF THE CHILD; OR

29 2. AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
30 COMMIT A CRIME DESCRIBED IN SUBITEM 1 OF THIS ITEM; AND

31 (V) THE PARENT HAS INVOLUNTARILY LOST PARENTAL RIGHTS TO
32 A SIBLING OF THE CHILD; AND

1 (4) (I) THE CHILD'S EMOTIONAL TIES WITH AND FEELINGS TOWARD
2 THE CHILD'S PARENTS, THE CHILD'S SIBLINGS, AND OTHERS WHO MAY AFFECT THE
3 CHILD'S BEST INTERESTS SIGNIFICANTLY;

4 (II) THE CHILD'S ADJUSTMENT TO:

- 5 1. COMMUNITY;
- 6 2. HOME;
- 7 3. PLACEMENT; AND
- 8 4. SCHOOL;

9 (III) THE CHILD'S FEELINGS ABOUT SEVERANCE OF THE
10 PARENT-CHILD RELATIONSHIP; AND

11 (IV) THE LIKELY IMPACT OF TERMINATING PARENTAL RIGHTS ON
12 THE CHILD'S WELL-BEING.

13 (E) WAIVER OF LOCAL DEPARTMENT'S OBLIGATION.

14 (1) A JUVENILE COURT SHALL CONSIDER THE EVIDENCE UNDER
15 SUBSECTION (D)(3)(I) AND (II) OF THIS SECTION AS TO A CONTINUING OR SERIOUS
16 ACT OR CONDITION AND MAY WAIVE A LOCAL DEPARTMENT'S OBLIGATIONS FOR
17 SERVICES DESCRIBED IN SUBSECTION (D)(1) OF THIS SECTION IF, AFTER
18 APPROPRIATE EVALUATION OF EFFORTS MADE AND SERVICES OFFERED, THE
19 JUVENILE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT A WAIVER IS
20 IN THE CHILD'S BEST INTERESTS.

21 (2) A JUVENILE COURT MAY WAIVE A LOCAL DEPARTMENT'S
22 OBLIGATIONS FOR SERVICES DESCRIBED IN SUBSECTION (D)(1) OF THIS SECTION IF
23 THE JUVENILE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT ONE OR
24 MORE OF THE ACTS OR CIRCUMSTANCES LISTED IN SUBSECTION (D)(3)(III), (IV), OR (V)
25 OF THIS SECTION EXISTS.

26 (3) IF A JUVENILE COURT WAIVES REUNIFICATION EFFORTS UNDER §
27 3-812(D) OF THE COURTS ARTICLE, THE JUVENILE COURT MAY NOT CONSIDER ANY
28 FACTOR UNDER SUBSECTION (D)(1) OF THIS SECTION.

29 (F) SPECIFIC FINDING REQUIRED.

30 IF A JUVENILE COURT FINDS THAT AN ACT OR CIRCUMSTANCE LISTED IN
31 SUBSECTION (D)(3)(III), (IV), OR (V) OF THIS SECTION EXISTS, THE JUVENILE COURT
32 SHALL MAKE A SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, WHETHER
33 RETURN OF THE CHILD TO A PARENT'S CUSTODY POSES AN UNACCEPTABLE RISK TO
34 THE CHILD'S FUTURE SAFETY.

35 (G) CONSTRUCTION AS VOLUNTARY.

1 IF A PARENT HAS CONSENTED TO GUARDIANSHIP IN ACCORDANCE WITH §
2 5-320(A)(1)(III)1 OF THIS SUBTITLE, THE LOSS OF PARENTAL RIGHTS SHALL BE
3 CONSIDERED VOLUNTARY.

4 COMMITTEE NOTE: Subsection (a) of this section is new and added to allow
5 concise reference to the drugs referenced in former FL § 5-313(d)(1)(iv)1.

6 Subsections (b), (c), (d)(1) through (3) and (4)(i) and (ii)1, 2, and 4, (e), and
7 (f) of this section are derived from former FL § 5-313(b), (c), (d)(1)(i), (ii),
8 (iv), and (v) and (3) through (5), and the introductory language of (a), as
9 related to CINAs, and, in conjunction with new § 5-302, revised to apply
10 only to those CINAs committed to a local department.

11 Subsection (d)(4)(ii)3, (iii), and (iv) of this section is new and added for
12 completeness.

13 Subsection (g) of this section is new and added to delineate voluntary TPR
14 under this subtitle.

15 In subsections (b) through (d) and (f) of this section, the former word
16 "natural" is omitted, to reflect that the parental rights of a nonbiological,
17 i.e., adoptive - parent can be terminated in the same manner as a
18 biological parent's can. In subsection (d)(3)(ii)2 of this section, however, the
19 word "mother" is substituted for the former reference to a "natural parent",
20 to conform to subsection (d)(3)(ii)1 of this section.

21 In subsection (b) of this section, the phrase "after consideration of factors
22 as required in this section" is added to make note of the requirement under
23 subsection (d) of this section to consider certain factors unless exempted
24 under subsection (c) of this section.

25 Also in subsection (b) of this section, the phrase "over the child's objection"
26 is added to conform to new § 5-320(a)(1)(i).

27 Also in subsection (b) of this section, the former word "decree" is omitted.

28 Subsection (c) of this section is revised to obviate the need to consider
29 certain factors in instances of abandonment, based on the exception in "the
30 case of an abandoned child" in former FL § 5-313(c). Accordingly, the
31 introductory language of subsection (d) of this section, "[e]xcept as
32 provided in subsection (c) ...", is added.

33 Subsection (c)(2) of this section is revised to make the time limit for failure
34 to claim parentage run from adjudication rather than abandonment.

35 In subsection (c)(2) of this section, reference to "60 days" is substituted for
36 the former reference to "2 months", to allow easier calculation of the
37 period.

38 In subsections (d)(1) and (2)(i)2 and (e)(1) and (2) and the introductory

- 1 language to subsection (c) of this section, the newly defined term "local
2 department" is substituted for the former references to a "child placement
3 agency", "agency to which the child is committed", and "custodian", to
4 conform to the scope of this subtitle.
- 5 In the introductory language to subsection (d) of this section, the reference
6 to "ruling on a petition" is substituted for the former reference to
7 "determining whether it is in the best interests of the child to terminate a
8 natural parent's rights as to the child in any case", for brevity.
- 9 In subsection (d)(2)(i)1 of this section, the former reference to contact with
10 a child "under a plan to reunite" a parent and child and the former bar
11 against affording significance to an "incidental visit ... or contribution" are
12 omitted.
- 13 In subsection (d)(2)(i)3 of this section, the phrase "if feasible" is added, to
14 reflect that a caregiver may preclude contact.
- 15 Also in subsection (d)(2)(i)3 of this section, the newly defined word
16 "caregiver" is substituted for the former reference to a "custodian".
- 17 In subsection (d)(2)(ii) of this section, the words "substitute physical" are
18 deleted from, and the defined term "support" is substituted for
19 "maintenance", in the former reference to "substitute physical care and
20 maintenance".
- 21 In subsection (d)(2)(iv) of this section, reference to an extension of time by
22 a juvenile court is added, and the former bar against consideration of the
23 inducement afforded by a continued relationship is deleted.
- 24 In subsection (d)(3)(i) of this section, the word "minor" is substituted for
25 the former reference to "any child in the family", to make the referenced
26 abuse or neglect applicable to anyone under the age of 18 years regardless
27 of relationship to the CINA.
- 28 Also in subsection (d)(3)(i) of this section, reference to a determination of
29 the "seriousness" of the abuse or neglect is substituted for the former
30 reference to a determination as "continuing or serious", as more
31 appropriate in light of the gamut of potential abuse or neglect and the
32 requirements in former FL § 5-313(d)(3) - new subsection (e)(1) of this
33 section.
- 34 Subsection (d)(3)(ii)1 of this section is revised so that a "toxicology" test is
35 required to determine exposure, as well as status of the mother on
36 admission.
- 37 In subsection (d)(3)(ii)2 of this section, reference to "a qualified addictions
38 specialist ... or ... physician or psychologist" is added to ensure a parent is
39 held to a recommendation only of a qualified counselor. As initially enacted
40 by Chapters 367 and 368, Acts of 1997, the requirement would apply only

1 if \$1.7 million was appropriated to pay for recommended treatment for
2 indigent mothers. The Committee believes the availability of money should
3 determine the application of this requirement from year to year.

4 Also in subsection (d)(3)(ii)2 of this section, the former reference to
5 "fail[ing] to fully participate" is omitted as included in the reference to
6 refusal.

7 In subsection (d)(3)(iv)1 of this section, the more limited phrase "against a
8 minor offspring of the parent, the child, or another parent of the child" is
9 substituted for the former phrase "against the child, the other natural
10 parent of the child, another child of the natural parent, or any person who
11 resides in the household of the natural parent".

12 In subsection (e)(1) and (2) of this section, references to "services described
13 in subsection (d)(1) ..." are substituted for the cross-references to former
14 FL § 5-313(c), to identify the referenced obligations clearly.

15 In subsection (e)(1) of this section, the narrower reference to "subsection
16 (d)(3)(i) and (ii)" is substituted for the former reference to "paragraph (1)(i)
17 through (iv)", to exclude the provision as to parental disability - now
18 revised in subsection (d)(2)(iii) of this section - and the requirement for a
19 determination as to repeated failure to clothe etc. a child, under FL §
20 5-313(d)(1)(iii), which is omitted as included in determinations as to CINA
21 status and financial ability.

22 Also in subsection (e)(1) of this section, reference to services "offered" is
23 substituted for the former reference to services "rendered", to allow
24 evidence of a refusal to accept services.

25 Subsection (e)(2) of this section is revised to allow, rather than require,
26 waiver, to ensure that services that a court considers in a child's best
27 interests can be continued.

28 Former FL § 5-313(a)(1) through (3), which allowed adjudication as a
29 CINA or "a neglected child, an abused child, or a dependent child", or
30 abandonment as an alternative basis for nonconsensual TPR, is omitted in
31 light of the limited scope of this subtitle under new § 5-302.

32 Former FL § 5-313(d)(2), which barred nonprovision of medical treatment
33 based on religious belief from constituting negligent parenting, is omitted.

34 As to "minor", *see* Art. 1, § 24 of the Code.

35 Defined terms: "Caregiver" § 5-301

36 "Child" § 5-301

37 "Child in need of assistance" § 1-101

38 "Crime of violence" § 5-101

1 "Disability" § 5-101

2 "Drug" § 5-323

3 "Guardianship" § 5-301

4 "Includes" § 1-101

5 "Including" § 1-101

6 "Juvenile court" § 1-101

7 "Local department" § 1-101

8 "Parent" § 5-301

9 "State" § 1-101

10 "Support" § 1-101

11 5-324. CONTENTS OF ORDER.

12 (A) DENIAL OF GUARDIANSHIP.

13 IN AN ORDER DENYING GUARDIANSHIP OF A CHILD, A JUVENILE COURT SHALL
14 INCLUDE:

15 (1) A SPECIFIC FACTUAL FINDING ON WHETHER REASONABLE EFFORTS
16 HAVE BEEN MADE TO FINALIZE THE CHILD'S PERMANENCY PLAN;

17 (2) ANY ORDER UNDER TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE IN
18 THE CHILD'S BEST INTERESTS; AND

19 (3) A DATE, NO LATER THAN 180 DAYS AFTER THE DATE OF THE ORDER,
20 FOR THE NEXT REVIEW HEARING UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
21 ARTICLE.

22 (B) GRANT OF GUARDIANSHIP.

23 (1) IN AN ORDER GRANTING GUARDIANSHIP OF A CHILD, A JUVENILE
24 COURT:

25 (I) SHALL INCLUDE A DIRECTIVE TERMINATING THE CHILD'S CINA
26 CASE;

27 (II) CONSISTENT WITH THE CHILD'S BEST INTERESTS:

28 1. MAY PLACE THE CHILD:

29 A. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN A
30 SPECIFIC TYPE OF FACILITY; OR

- 1 B. WITH A SPECIFIC INDIVIDUAL;
- 2 MAY DIRECT PROVISION OF SERVICES BY A LOCAL
3 DEPARTMENT TO:
- 4 A. THE CHILD; OR
- 5 B. THE CHILD'S CAREGIVER;
- 6 3. SUBJECT TO A LOCAL DEPARTMENT RETAINING LEGAL
7 GUARDIANSHIP, MAY AWARD TO A CAREGIVER LIMITED AUTHORITY TO MAKE AN
8 EMERGENCY OR ORDINARY DECISION AS TO THE CHILD'S CARE, EDUCATION,
9 MENTAL OR PHYSICAL HEALTH, OR WELFARE;
- 10 4. MAY ALLOW ACCESS TO A MEDICAL OR OTHER RECORD OF
11 THE CHILD;
- 12 5. MAY ALLOW VISITATION FOR THE CHILD WITH A SPECIFIC
13 INDIVIDUAL;
- 14 6. MAY APPOINT, OR CONTINUE THE APPOINTMENT OF, A
15 COURT-APPOINTED SPECIAL ADVOCATE FOR ANY PURPOSE SET FORTH UNDER §
16 3-830 OF THE COURTS ARTICLE; ~~AND~~
- 17 7. SHALL DIRECT THE PROVISION OF ANY OTHER SERVICE
18 OR TAKING OF ANY OTHER ACTION AS TO THE CHILD'S EDUCATION, HEALTH, AND
19 WELFARE, INCLUDING:
- 20 A. FOR A CHILD WHO IS AT LEAST 16 YEARS OLD, SERVICES
21 NEEDED TO HELP THE CHILD'S TRANSITION FROM GUARDIANSHIP TO
22 INDEPENDENCE; OR
- 23 B. FOR A CHILD WITH A DISABILITY, SERVICES TO OBTAIN
24 ONGOING CARE, IF ANY, NEEDED AFTER THE GUARDIANSHIP CASE ENDS; AND
- 25 8. MAY CO-COMMIT THE CHILD TO THE CUSTODY OF THE
26 DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND ORDER THE DEPARTMENT OF
27 HEALTH AND MENTAL HYGIENE TO PROVIDE ANY SERVICES THAT THE COURT FINDS
28 TO BE IN THE CHILD'S BEST INTERESTS A PLAN FOR THE CHILD OF CLINICALLY
29 APPROPRIATE SERVICES IN THE LEAST RESTRICTIVE SETTING, IN ACCORDANCE
30 WITH FEDERAL AND STATE LAW;
- 31 (III) IF ENTERED UNDER § 5-322 OF THIS SUBTITLE, SHALL STATE
32 EACH PARTY'S RESPONSE TO THE PETITION;
- 33 (IV) SHALL STATE A SPECIFIC FACTUAL FINDING ON WHETHER
34 REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE CHILD'S PERMANENCY
35 PLAN;

1 (V) SHALL STATE WHETHER THE CHILD'S PARENT HAS WAIVED
2 THE RIGHT TO NOTICE; AND

3 (VI) SHALL SET A DATE, NO LATER THAN 180 DAYS AFTER THE DATE
4 OF THE ORDER, FOR THE INITIAL GUARDIANSHIP REVIEW HEARING UNDER § 5-326
5 OF THIS SUBTITLE.

6 (2) (I) EXCEPT FOR EMERGENCY COMMITMENT IN ACCORDANCE
7 WITH § 10-617 OF THE HEALTH - GENERAL ARTICLE OR AS EXPRESSLY AUTHORIZED
8 BY A JUVENILE COURT IN ACCORDANCE WITH THE STANDARDS IN § 3-819(H) OR 26 (I)
9 OF THE COURTS ARTICLE, A CHILD MAY NOT BE COMMITTED OR OTHERWISE PLACED
10 FOR INPATIENT CARE OR TREATMENT IN A PSYCHIATRIC FACILITY OR A FACILITY
11 FOR THE DEVELOPMENTALLY DISABLED.

12 (II) A JUVENILE COURT SHALL INCLUDE IN A COMMITMENT ORDER
13 UNDER THIS PARAGRAPH A REQUIREMENT THAT THE GUARDIAN:

14 1. FILE A PROGRESS REPORT WITH THE JUVENILE COURT AT
15 LEAST EVERY 180 DAYS; AND

16 2. PROVIDE A COPY OF EACH REPORT TO EACH PERSON
17 ENTITLED TO NOTICE OF A REVIEW HEARING UNDER § 5-326 OF THIS SUBTITLE.

18 (III) EVERY 180 DAYS DURING A COMMITMENT OR PLACEMENT
19 UNDER THIS PARAGRAPH, A JUVENILE COURT SHALL HOLD A HEARING TO
20 DETERMINE WHETHER THE STANDARDS IN § 3-819(H) OR (I) OF THE COURTS ARTICLE
21 CONTINUE TO BE MET.

22 COMMITTEE NOTE: Subsections (a) and (b)(1)(i), (ii)1, 2, and 4 through 7, (iii),
23 (iv), and (v) and (2) of this section are new and added to state expressly the
24 authority of a guardianship.

25 Subsection (b)(1)(ii)3 of this section is derived from former FL § 5-317(g)(2)
26 and, except for the reference to investigations and hearings, (1), and the
27 substance of former § 5-301(g), which defined "joint guardianship".

28 Subsection (b)(1)(vi) of this section is new and added to ensure scheduling
29 of an initial review hearing.

30 Defined terms: "Caregiver" § 5-301

31 "Child" § 5-301

32 "CINA case" § 1-101

33 "Disability" § 5-101

34 "Guardianship" § 5-301

35 "Includes" § 1-101

36 "Including" § 1-101

1 "Juvenile court" § 1-101

2 "Local department" § 1-101

3 "Parent" § 5-301

4 "Party" § 5-301

5 "Person" § 1-101

6 5-325. EFFECTS OF ORDER FOR GUARDIANSHIP.

7 (A) PARENT-CHILD RELATIONSHIP.

8 AN ORDER FOR GUARDIANSHIP OF AN INDIVIDUAL:

9 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, § 4-414 OF THE
10 ESTATES AND TRUSTS ARTICLE, AND § 2-123 OF THE REAL PROPERTY ARTICLE,
11 TERMINATES A PARENT'S DUTIES, OBLIGATIONS, AND RIGHTS TOWARD THE
12 INDIVIDUAL;

13 (2) ELIMINATES THE NEED FOR A FURTHER CONSENT BY A PARENT TO
14 ADOPTION OF THE INDIVIDUAL;

15 (3) GRANTS A LOCAL DEPARTMENT GUARDIANSHIP WITH THE RIGHT TO
16 CONSENT TO THE INDIVIDUAL'S ADOPTION OR OTHER PLANNED PERMANENT LIVING
17 ARRANGEMENT; AND

18 (4) UNLESS A TIMELY APPEAL IS FILED, TERMINATES THE INDIVIDUAL'S
19 CINA CASE.

20 (B) GUARDIAN.

21 (1) UNLESS A JUVENILE COURT GIVES LEGAL CUSTODY TO ANOTHER
22 PERSON, A CHILD'S GUARDIAN UNDER THIS SUBTITLE HAS LEGAL CUSTODY.

23 (2) (I) UNLESS A JUVENILE COURT ORDERS OTHERWISE AND
24 SUBJECT TO REVIEW BY THE JUVENILE COURT, A CHILD'S GUARDIAN MAY MAKE ALL
25 DECISIONS AFFECTING THE CHILD'S EDUCATION, HEALTH, AND WELFARE,
26 INCLUDING CONSENTING:

27 1. TO ADOPTION OF THE CHILD;

28 2. TO APPLICATION BY THE CHILD FOR A DRIVER'S LICENSE;

29 3. TO ENLISTMENT BY THE CHILD IN THE ARMED FORCES;

30 4. TO MARRIAGE OF THE CHILD; AND

31 5. SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS
32 PARAGRAPH, TO MEDICAL, PSYCHIATRIC, OR SURGICAL TREATMENT.

1 (II) A CHILD'S GUARDIAN:

2 1. MAY HAVE THE CHILD ADMITTED TO AN INPATIENT
3 PSYCHIATRIC FACILITY IN ACCORDANCE WITH THE STANDARDS FOR EMERGENCY
4 COMMITMENT IN § 10-617 OF THE HEALTH - GENERAL ARTICLE FOR NOT MORE THAN
5 20 DAYS;

6 2. EXCEPT AS PROVIDED IN ITEM 1 OF THIS SUBPARAGRAPH,
7 MAY NOT PLACE THE CHILD IN AN INPATIENT PSYCHIATRIC FACILITY WITHOUT
8 EXPRESS AUTHORIZATION OF THE JUVENILE COURT.

9 (III) 1. A CHILD'S GUARDIAN MAY NOT WITHHOLD OR WITHDRAW
10 A LIFE-SUSTAINING PROCEDURE WITHOUT THE PRIOR AUTHORIZATION OF A
11 JUVENILE COURT.

12 2. IN DECIDING WHETHER TO GRANT AUTHORIZATION, A
13 JUVENILE COURT SHALL APPLY THE FACTORS SET FORTH IN § 13-711(B) OF THE
14 ESTATES AND TRUSTS ARTICLE.

15 (3) A LOCAL DEPARTMENT SHALL NOTIFY A JUVENILE COURT, A CHILD'S
16 ATTORNEY, AND THE ATTORNEY FOR EACH OTHER PARTY WHO HAS NOT WAIVED
17 THE RIGHT TO NOTICE:

18 (I) WITHIN 2 BUSINESS DAYS AFTER THE CHILD'S PLACEMENT
19 CHANGES OR THE TIME REQUIRED UNDER § 5-326(B) OF THIS SUBTITLE, WHICHEVER
20 IS SHORTER;

21 (II) WITHIN 2 BUSINESS DAYS AFTER THE CHILD IS PLACED IN A
22 PSYCHIATRIC FACILITY; OR

23 (III) WITHIN 2 BUSINESS DAYS AFTER THE CHILD IS ABSENT FROM
24 A PLACEMENT FOR MORE THAN A WEEK.

25 (4) A LOCAL DEPARTMENT SHALL GIVE A CHILD'S ATTORNEY THE
26 CHILD'S NEW ADDRESS AND TELEPHONE NUMBER WITHIN 2 BUSINESS DAYS AFTER
27 THE ADDRESS OR TELEPHONE NUMBER CHANGES.

28 COMMITTEE NOTE: Subsection (a)(1) and (2) of this section is derived from
29 former FL § 5-317(f)(1) and (3), as it related to guardianships.

30 Subsection (a)(3) of this section is substituted for former FL § 5-317(f)(4),
31 to state expressly the scope of a local department's authority with respect
32 to an individual committed to the department.

33 Subsection (a)(4) of this section is new and added to state a specific
34 termination date for a CINA case.

35 Subsection (b) of this section is new and added to state expressly the
36 powers and duties of a guardian under this subtitle.

1 In the introductory language of subsection (a) of this section, the word
2 "order" is substituted for the former, more archaic "decree".

3 The introductory exception in subsection (a)(1) of this section, "[e]xcept as
4 otherwise provided ...", is substituted for the former exception "this
5 section" - i.e., former FL § 5-308 - to reflect the recodification of former §
6 5-308(d).

7 In subsection (a)(1) and (2) of this section, the former word "natural" is
8 omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive
9 - parent can be terminated in the same manner as a biological parent's
10 can.

11 Former FL § 5-317(f)(2), which described guardianship as obviating the
12 need for notice, is omitted as unnecessary in light of the substantive
13 provision of the referenced former FL § 5-319 - new § 5-326.

14 Former FL § 5-318, which barred consent to long-term care in
15 guardianships created "before June 1, 1967", is omitted as obsolete.

16 Defined terms: "Child" § 5-301

17 "CINA case" § 1-101

18 "Guardianship" § 5-301

19 "Includes" § 1-101

20 "Including" § 1-101

21 "Juvenile court" § 1-101

22 "Local department" § 1-101

23 "Parent" § 5-301

24 "Party" § 5-301

25 "Person" § 1-101

26 5-326. REVIEW HEARINGS.

27 (A) PERIODIC HEARING.

28 (1) A JUVENILE COURT SHALL HOLD:

29 (I) AN INITIAL GUARDIANSHIP REVIEW HEARING AS SCHEDULED
30 UNDER § 5-324(B)(1)(VI) OF THIS SUBTITLE TO ESTABLISH A PERMANENCY PLAN FOR
31 THE CHILD; AND

1 (II) AT LEAST ONCE EACH YEAR AFTER THE INITIAL
2 GUARDIANSHIP REVIEW HEARING UNTIL THE JUVENILE COURT'S JURISDICTION
3 TERMINATES, A GUARDIANSHIP REVIEW HEARING.

4 (2) AT EACH GUARDIANSHIP REVIEW HEARING, A JUVENILE COURT
5 SHALL DETERMINE WHETHER:

6 (I) THE CHILD'S CURRENT CIRCUMSTANCES AND PLACEMENT ARE
7 IN THE CHILD'S BEST INTERESTS;

8 (II) THE PERMANENCY PLAN THAT IS IN EFFECT IS IN THE CHILD'S
9 BEST INTERESTS; AND

10 (III) REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE
11 PERMANENCY PLAN THAT IS IN EFFECT.

12 (3) (I) A JUVENILE COURT SHALL GIVE AT LEAST 30 DAYS' NOTICE
13 BEFORE EACH GUARDIANSHIP REVIEW HEARING FOR A CHILD TO:

14 1. THE LOCAL DEPARTMENT;

15 2. THE CHILD'S ATTORNEY; AND

16 3. EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
17 WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S ATTORNEY.

18 (II) A PARENT IS ENTITLED TO BE HEARD AND TO PARTICIPATE AT
19 A GUARDIANSHIP REVIEW HEARING.

20 (III) A PARENT IS NOT A PARTY SOLELY ON THE BASIS OF THE RIGHT
21 TO NOTICE OR OPPORTUNITY TO BE HEARD OR PARTICIPATE AT A GUARDIANSHIP
22 REVIEW HEARING.

23 (4) (I) A LOCAL DEPARTMENT SHALL GIVE A CHILD'S CAREGIVER AT
24 LEAST 7 DAYS' NOTICE BEFORE A GUARDIANSHIP REVIEW HEARING.

25 (II) A CAREGIVER IS ENTITLED TO BE HEARD AT A GUARDIANSHIP
26 REVIEW HEARING.

27 (III) A CAREGIVER IS NOT A PARTY SOLELY ON THE BASIS OF THE
28 RIGHT TO NOTICE OR OPPORTUNITY TO BE HEARD AT A GUARDIANSHIP REVIEW
29 HEARING.

30 (5) (I) AT LEAST 10 DAYS BEFORE EACH GUARDIANSHIP REVIEW
31 HEARING, A LOCAL DEPARTMENT SHALL:

32 1. INVESTIGATE AS NEEDED TO PREPARE A WRITTEN
33 REPORT THAT SUMMARIZES THE CHILD'S CIRCUMSTANCES AND THE PROGRESS
34 THAT HAS BEEN MADE IN IMPLEMENTING THE CHILD'S PERMANENCY PLAN; AND

35 2. SEND A COPY OF THE REPORT TO:

1 A. THE CHILD'S ATTORNEY; AND

2 B. EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
3 WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S ATTORNEY.

4 (II) NOTICE TO A PARENT UNDER THIS PARAGRAPH SHALL BE SENT
5 TO THE PARENT'S LAST ADDRESS KNOWN TO THE JUVENILE COURT.

6 (6) A CHILD'S PERMANENCY PLAN MAY BE, IN ORDER OF PRIORITY:

7 (I) ADOPTION OF THE CHILD;

8 (II) CUSTODY AND GUARDIANSHIP OF THE CHILD BY AN
9 INDIVIDUAL; OR

10 (III) ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT
11 THAT:

12 1. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE CHILD,
13 INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY, PHYSICAL
14 PLACEMENT, AND SOCIALIZATION NEEDS; AND

15 2. INCLUDES GOALS THAT PROMOTE THE CONTINUITY OF
16 RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND SIGNIFICANT ROLE
17 IN THE CHILD'S LIFE.

18 (7) EVERY REASONABLE EFFORT SHALL BE MADE TO IMPLEMENT A
19 PERMANENCY PLAN WITHIN 1 YEAR.

20 (8) AT EACH GUARDIANSHIP REVIEW HEARING FOR A CHILD, A
21 JUVENILE COURT SHALL:

22 (I) EVALUATE THE CHILD'S SAFETY AND ACT AS NEEDED TO
23 PROTECT THE CHILD;

24 (II) CONSIDER THE WRITTEN REPORT OF A LOCAL OUT-OF-HOME
25 PLACEMENT REVIEW BOARD REQUIRED UNDER § 5-545 OF THIS TITLE;

26 (III) DETERMINE THE EXTENT OF COMPLIANCE WITH THE
27 PERMANENCY PLAN;

28 (IV) MAKE A SPECIFIC FACTUAL FINDING ON WHETHER
29 REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE CHILD'S PERMANENCY
30 PLAN AND DOCUMENT THE FINDING;

31 (V) SUBJECT TO SUBSECTION (B) OF THIS SECTION, CHANGE THE
32 CHILD'S PERMANENCY PLAN IF A CHANGE WOULD BE IN THE CHILD'S BEST
33 INTERESTS;

34 (VI) PROJECT A REASONABLE DATE BY WHICH THE PERMANENCY
35 PLAN WILL BE FINALIZED;

1 (VII) ENTER ANY ORDER THAT THE JUVENILE COURT FINDS
2 APPROPRIATE TO IMPLEMENT THE PERMANENCY PLAN; AND

3 (VIII) TAKE ALL OTHER ACTION THAT THE JUVENILE COURT
4 CONSIDERS TO BE IN THE CHILD'S BEST INTERESTS, INCLUDING ANY ORDER
5 ALLOWED UNDER § 5-324(B)(1)(II) OF THIS SUBTITLE.

6 (9) A JUVENILE COURT MAY APPROVE A PERMANENCY PLAN OTHER
7 THAN ADOPTION OF A CHILD ONLY IF THE JUVENILE COURT FINDS THAT, FOR A
8 COMPELLING REASON, ADOPTION IS NOT IN THE CHILD'S BEST INTERESTS.

9 (10) (I) AT A GUARDIANSHIP REVIEW HEARING HELD 1 YEAR OR MORE
10 AFTER A JUVENILE COURT ENTERS AN ORDER FOR GUARDIANSHIP OF A CHILD, THE
11 JUVENILE COURT MAY DESIGNATE AN INDIVIDUAL GUARDIAN OF THE CHILD IF:

12 1. THE LOCAL DEPARTMENT CERTIFIES THE CHILD'S
13 SUCCESSFUL PLACEMENT WITH THE INDIVIDUAL UNDER THE SUPERVISION OF THE
14 LOCAL DEPARTMENT OR ITS AGENT FOR AT LEAST 180 DAYS OR A SHORTER PERIOD
15 ALLOWED BY THE JUVENILE COURT ON RECOMMENDATION OF THE LOCAL
16 DEPARTMENT;

17 2. THE LOCAL DEPARTMENT FILES A REPORT BY A CHILD
18 PLACEMENT AGENCY, COMPLETED IN ACCORDANCE WITH DEPARTMENT
19 REGULATIONS, AS TO THE SUITABILITY OF THE INDIVIDUAL TO BE THE CHILD'S
20 GUARDIAN; AND

21 3. THE JUVENILE COURT MAKES A SPECIFIC FINDING THAT:

22 A. FOR A COMPELLING REASON, ADOPTION IS NOT IN THE
23 CHILD'S BEST INTERESTS; AND

24 B. CUSTODY AND GUARDIANSHIP BY THE INDIVIDUAL IS IN
25 THE CHILD'S BEST INTERESTS AND IS THE LEAST RESTRICTIVE ALTERNATIVE
26 AVAILABLE.

27 (II) DESIGNATION OF A GUARDIAN UNDER THIS PARAGRAPH
28 TERMINATES THE LOCAL DEPARTMENT'S LEGAL OBLIGATIONS AND
29 RESPONSIBILITIES TO THE CHILD.

30 (III) AFTER DESIGNATION OF A GUARDIAN UNDER THIS
31 PARAGRAPH, A JUVENILE COURT MAY ORDER ANY FURTHER REVIEW THAT THE
32 JUVENILE COURT FINDS TO BE IN THE CHILD'S BEST INTERESTS.

33 (B) EMERGENCY REVIEW HEARING.

34 (1) WHENEVER A JUVENILE COURT ORDERS A SPECIFIC PLACEMENT
35 FOR A CHILD, A LOCAL DEPARTMENT MAY REMOVE THE CHILD FROM THE
36 PLACEMENT BEFORE A HEARING ONLY IF:

1 (I) REMOVAL IS NEEDED TO PROTECT THE CHILD FROM SERIOUS
2 IMMEDIATE DANGER;

3 (II) CONTINUATION OF THE PLACEMENT IS CONTRARY TO THE
4 CHILD'S BEST INTERESTS; OR

5 (III) THE CHILD'S CAREGIVER ASKS FOR THE CHILD'S IMMEDIATE
6 REMOVAL.

7 (2) (I) ON THE NEXT DAY ON WHICH THE CIRCUIT COURT SITS AFTER
8 A LOCAL DEPARTMENT CHANGES A PLACEMENT UNDER THIS SUBSECTION, THE
9 JUVENILE COURT SHALL HOLD AN EMERGENCY REVIEW HEARING ON THE CHANGE.

10 (II) A JUVENILE COURT SHALL GIVE REASONABLE NOTICE OF AN
11 EMERGENCY REVIEW HEARING TO:

12 1. THE CHILD'S ATTORNEY;

13 2. EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
14 WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S ATTORNEY; AND

15 3. EACH OTHER PARTY'S ATTORNEY.

16 (III) AT AN EMERGENCY REVIEW HEARING, THE STANDARD OF
17 REVIEW AS TO A CHANGE SHALL BE THE STANDARD FOR CONTINUED SHELTER CARE
18 IN A HEARING UNDER § 3-815 OF THE COURTS ARTICLE.

19 (IV) UNLESS ALL OF THE PARTIES AGREE TO A JUVENILE COURT'S
20 ORDER ENTERED AT AN EMERGENCY REVIEW HEARING, THE JUVENILE COURT
21 SHALL HOLD A FULL REVIEW HEARING ON THE CHANGE WITHIN 30 DAYS AFTER THE
22 DATE OF REMOVAL OR, IF AGREED TO BY THE PARTIES, A LATER DATE.

23 COMMITTEE NOTE: Subsection (a)(1), (2), and (8)(viii) of this section is
24 derived from former FL § 5-319(a), (b), and (d) through (f) and revised to
25 require review hearings at set intervals, rather than only on notice of a
26 disrupted placement.

27 Subsection (a)(3)(i) of this section is substituted for former FL § 5-319(c),
28 which imposed the notice requirement on a petitioner.

29 Subsection (a)(3)(ii) and (iii) and (4) of this section is new and added to
30 define the rights and status of parents and ~~caretakers~~ caregivers.
31 Although subsection (a)(3)(iii) of this section states that a parent is not a
32 party to a guardianship review hearing, the Committee notes that a former
33 parent may file a motion to intervene under Maryland Rule 2-214.

34 Subsection (a)(5) of this section is new and added to ensure that a court
35 and the parties have current information about a child in a timely manner
36 for consideration at a hearing.

1 Subsection (a)(6), (7), and (9) of this section is new and added to conform to
2 federal law, by allowing alternative plans in addition to adoption or
3 long-term care but in a timely manner and only when adoption is not in a
4 child's best interests.

5 Accordingly, in subsection (a)(2)(iii) of this section, the reference to
6 "reasonable efforts ... to finalize the permanency plan" is substituted for
7 the former reference to "progress ... toward the child's adoption".

8 Subsection (a)(8)(i) through (vii) of this section is new and added to clarify
9 the allowable scope of a court's order after a guardianship review hearing.

10 Subsection (a)(10) of this section is substituted for former FL § 5-319(g)
11 and (h), to set a minimum period before guardianship is awarded to an
12 individual, to spell out the effect of an individual guardianship, and to
13 provide a court with discretion as to continuing review.

14 Subsection (b) of this section is new and added to provide for an emergency
15 hearing in the event that a local department believes a court-ordered
16 placement is no longer suitable. Subsection (b) is patterned after current
17 CJ § 3-820.

18 In subsection (a)(8)(viii) of this section, the reference to "any order allowed
19 under § 5-324(b)(1)(ii) ..." is added to incorporate the types of action that a
20 court could take in granting a guardianship.

21 Defined terms: "Caregiver" § 5-301

22 "Child" § 5-301

23 "Child placement agency" § 5-101

24 "Department" § 5-101

25 "Guardianship" § 5-301

26 "Includes" § 1-101

27 "Including" § 1-101

28 "Juvenile court" § 1-101

29 "Local department" § 1-101

30 "Parent" § 5-301

31 "Party" § 5-301

1 5-327. FAILED CONDITIONAL PLACEMENT DURING GUARDIANSHIP.

2 IF, AFTER A JUVENILE COURT GRANTS GUARDIANSHIP, A PARTY BECOMES
3 AWARE THAT A CONDITION OF CONSENT TO THE GUARDIANSHIP MAY NOT BE
4 FULFILLED:

5 (1) THE PARTY PROMPTLY SHALL:

6 (I) FILE NOTICE WITH THE JUVENILE COURT; AND

7 (II) GIVE NOTICE TO ALL OF THE OTHER PARTIES;

8 (2) THE JUVENILE COURT SHALL SCHEDULE A HEARING TO OCCUR
9 WITHIN 30 DAYS AFTER THE FILING OF THE NOTICE; AND

10 (3) IF THE PARTY WHOSE CONDITION CANNOT BE FULFILLED FAILS TO
11 ENTER INTO A NEW CONSENT, THE JUVENILE COURT SHALL:

12 (I) SET ASIDE THE GUARDIANSHIP ORDER;

13 (II) SET THE CASE IN FOR A PROMPT TRIAL ON THE MERITS OF THE
14 GUARDIANSHIP PETITION; AND

15 (III) REOPEN THE CINA CASE FOR REVIEW AS REQUIRED UNDER
16 TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE.

17 COMMITTEE NOTE: This section is new and added to provide for the effect
18 when a condition of the newly authorized conditional consent cannot be
19 fulfilled.

20 Defined terms: "CINA case" § 1-101

21 "Guardianship" § 5-301

22 "Juvenile court" § 1-101

23 "Party" § 5-301

24 5-328. TERMINATION OF GUARDIANSHIP.

25 (A) LOCAL DEPARTMENT GUARDIANSHIP.

26 IF A LOCAL DEPARTMENT IS A CHILD'S GUARDIAN UNDER THIS SUBTITLE, A
27 JUVENILE COURT:

28 (1) RETAINS JURISDICTION UNTIL:

29 (I) THE CHILD ATTAINS 18 YEARS OF AGE; OR

30 (II) THE JUVENILE COURT FINDS THE CHILD TO BE ELIGIBLE FOR
31 EMANCIPATION; AND

1 (2) MAY CONTINUE JURISDICTION UNTIL THE CHILD ATTAINS 21 YEARS
2 OF AGE.

3 (B) INDIVIDUAL GUARDIAN.

4 IF A JUVENILE COURT DESIGNATES AN INDIVIDUAL AS A CHILD'S GUARDIAN,
5 THE JUVENILE COURT:

6 (1) MAY RETAIN JURISDICTION UNTIL THE CHILD ATTAINS 18 YEARS OF
7 AGE; OR

8 (2) ON FINDING FURTHER REVIEW UNNECESSARY TO MAINTAIN THE
9 CHILD'S HEALTH AND WELFARE, MAY TERMINATE THE CASE BEFORE THE CHILD
10 ATTAINS 18 YEARS OF AGE.

11 (C) ADOPTION ORDER.

12 AN ORDER FOR ADOPTION OF A CHILD TERMINATES THE CHILD'S
13 GUARDIANSHIP CASE.

14 (D) CLOSING CASE.

15 ON TERMINATION OF A GUARDIANSHIP CASE, A JUVENILE COURT SHALL CLOSE
16 THE CASE.

17 COMMITTEE NOTE: This section is substituted for former FL § 5-319(i),
18 which referred only to jurisdiction in equity courts.

19 Defined terms: "Child" § 5-301

20 "Guardianship" § 5-301

21 "Juvenile court" § 1-101

22 "Local department" § 1-101

23 5-329. RESERVED.

24 5-330. RESERVED.

25 PART III. ADOPTION WITHOUT PRIOR TERMINATION OF PARENTAL RIGHTS.

26 5-331. PETITION.

27 (A) AUTHORIZED.

28 BEFORE TERMINATION OF PARENTAL RIGHTS AS TO A CHILD, A PETITION FOR
29 ADOPTION OF THE CHILD MAY BE FILED ONLY AS PROVIDED IN THIS PART III OF
30 THIS SUBTITLE.

31 (B) PETITIONER.

- 1 1. STATES THE DATE ON WHICH THE PETITION WAS FILED;
- 2 2. IDENTIFIES EACH PERSON WHOSE CONSENT WAS FILED
- 3 WITH THE PETITION;
- 4 3. STATES THE OBLIGATION OF A PARENT TO GIVE THE
- 5 JUVENILE COURT AND LOCAL DEPARTMENT NOTICE OF EACH CHANGE IN THE
- 6 PARENT'S ADDRESS;
- 7 4. IF APPLICABLE, STATES THAT A POSTADOPTION
- 8 AGREEMENT WAS FILED WITH THE PETITION; AND
- 9 5. INCLUDES NO IDENTIFYING INFORMATION THAT WOULD
- 10 BE IN VIOLATION OF AN AGREEMENT OR CONSENT.

11 (2) IN ADDITION TO A COPY OF AN AGREEMENT FOR POSTADOPTION
 12 CONTACT, A PETITIONER SHALL FILE THE ORIGINAL AGREEMENT UNDER SEAL.

13 (D) AMENDED PETITION.

14 IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY OF AN
 15 ORDER, THE PETITIONER SHALL AMEND THE PETITION ACCORDINGLY.

16 (E) ASSISTANCE FROM LOCAL DEPARTMENT.

17 THE LOCAL DEPARTMENT WITH CUSTODY OF THE CHILD SHALL ASSIST A
 18 PETITIONER IN COMPLYING WITH THE REQUIREMENTS OF THIS SECTION.

19 COMMITTEE NOTE: Subsection (a) of this section is derived from FL §
 20 5-317(a) and revised to reflect the new mandate for a prior guardianship
 21 petition absent special circumstances.

22 Subsection (b)(1) of this section is derived from former FL § 5-309(a).

23 Subsections (b)(2) and (d) of this section are derived from former FL §
 24 5-315(a)(2) and (3) and (b).

25 Subsection (c) of this section is new and added to specify minimum
 26 requirements for a petition under this section.

27 Subsection (e) of this section is new and added to ensure that a petition
 28 meets the requirement of this section.

29 In subsection (b) of this section, the former word "decree" is omitted.
 30 Similarly, in subsection (d) of this section, the reference to an "order" is
 31 substituted for the former word "decree".

32 Former FL § 5-315(a)(1), which provided an exception for the petitioner
 33 whose spouse is a parent, is omitted from this Part III.

34 As to "adult", see Art. 1, § 24 of the Code.

1 Defined terms: "Child" § 5-301

2 "Guardianship" § 5-301

3 "Identifying information" § 5-301

4 "Includes" § 1-101

5 "Including" § 1-101

6 "Juvenile court" § 1-101

7 "Local department" § 1-101

8 "Parent" § 5-301

9 "Person" § 1-101

10 "State" § 1-101

11 5-332. PARENTAL ADDRESSES.

12 A CLERK OF A JUVENILE COURT SHALL KEEP A LISTING OF EACH ADDRESS
13 GIVEN TO THE JUVENILE COURT FOR A PARENT UNDER THIS PART III OF THIS
14 SUBTITLE.

15 COMMITTEE NOTE: This section is new and added to clarify the duty of a
16 clerk of court to keep the listing required under current CJ § 3-822 beyond
17 the CINA proceeding.

18 Defined terms: "Juvenile court" § 1-101

19 "Parent" § 5-301

20 5-333. NOTICE OF FILING.

21 (A) REQUIREMENT.

22 WITHIN 5 DAYS AFTER A PETITION FOR ADOPTION OF A CHILD IS FILED UNDER
23 THIS PART III OF THIS SUBTITLE WITH A JUVENILE COURT, THE CLERK SHALL SEND
24 A COPY OF THE PETITION, WITH THE NOTICE OF FILING THAT WAS ATTACHED TO
25 THE PETITION, TO:

26 (1) THE LOCAL DEPARTMENT WITH CUSTODY OF THE CHILD;

27 (2) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT WAIVED THE
28 RIGHT TO NOTICE;

29 (3) EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
30 CASE; AND

31 (4) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

1 (B) METHOD.

2 NOTICE UNDER THIS SECTION SHALL BE BY FIRST CLASS MAIL.

3 (C) PARENTAL ADDRESS.

4 NOTICE TO A PARENT UNDER THIS SECTION SHALL BE SENT TO THE PARENT'S
5 LAST ADDRESS KNOWN TO THE JUVENILE COURT.

6 COMMITTEE NOTE: This section is new and added to state an express
7 requirement for notice to the individual who is the subject of the
8 guardianship petition and the individual's counsel, as well as the
9 individual's parents and their counsel.

10 Defined terms: "Child" § 5-301

11 "CINA case" § 1-101

12 "Juvenile court" § 1-101

13 "Local department" § 1-101

14 "Parent" § 5-301

15 5-334. ORDER TO SHOW CAUSE.

16 (A) REQUIREMENT.

17 PROMPTLY AFTER A PETITION FOR ADOPTION IS FILED UNDER THIS PART III OF
18 THIS SUBTITLE, A JUVENILE COURT SHALL ISSUE A SHOW CAUSE ORDER THAT
19 REQUIRES THE PARTY TO WHOM ISSUED TO RESPOND AS REQUIRED UNDER THE
20 MARYLAND RULES.

21 (B) SERVICE.

22 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO ADOPTION OF A CHILD UNDER
23 THIS SECTION, A PETITIONER SHALL SERVE THE ORDER ON:

24 (1) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT CONSENTED
25 TO THE ADOPTION;

26 (2) ~~EACH LIVING PARENT'S~~ THE LAST ATTORNEY OF RECORD IN THE
27 CINA CASE FOR EACH LIVING PARENT WHO HAS NOT CONSENTED TO THE ADOPTION;
28 AND

29 (3) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

30 (C) METHOD.

31 SERVICE UNDER THIS SECTION SHALL BE:

32 (1) ON A PARENT, BY:

- 1 (I) FIRST CLASS MAIL; AND
- 2 (II) 1. PERSONAL SERVICE; OR
- 3 2. CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN
- 4 RECEIPT REQUESTED; AND
- 5 (2) ON AN ATTORNEY, BY:
- 6 (I) PERSONAL SERVICE; OR
- 7 (II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.
- 8 (D) PARENTAL ADDRESSES.

9 SERVICE ON A PARENT UNDER THIS SECTION SHALL BE ATTEMPTED AS
 10 PROVIDED IN § 5-316(D), (E), AND (F) OF THIS SUBTITLE.

11 COMMITTEE NOTE: Subsection (a) of this section is new and added to state
 12 expressly the duty of a court to issue a show cause order.

13 Subsection (b)(1) and (3) of this section is derived from former FL §
 14 5-322(a)(3) and, as it related to adoption, (1)(i) and (ii)2, and the
 15 introductory language of (b) and revised to reflect that a petitioner's duty
 16 begins "on issuance" of a show cause order by a court.

17 Subsections (b)(2) and (c)(1)(i) of this section are new and added to provide
 18 additional methods for notification of a parent.

19 Subsection (c)(1) of this section is derived from the reference to "certified
 20 mail or private process" in the introductory language of former FL §
 21 5-322(b), and the inconsistent reference to "both certified mail and private
 22 process", in former FL § 5-322(c)(2) is omitted.

23 Subsection (c)(2) of this section is new and added to state an express
 24 requirement for notice to counsel, as well as a parent.

25 Subsection (d) of this section is substituted for former FL § 5-322(b)(1)
 26 through (e), as it related to adoption, for brevity.

27 Defined terms: "Child" § 5-301

28 "CINA case" § 1-101

29 "Juvenile court" § 1-101

30 "Parent" § 5-301

31 "Party" § 5-301

1 5-335. HEARING ON ADOPTION PETITION.

2 (A) REQUIREMENT.

3 A JUVENILE COURT SHALL HOLD A HEARING BEFORE ENTERING AN ORDER
4 FOR ADOPTION UNDER THIS PART III OF THIS SUBTITLE.

5 (B) NOTICE.

6 BEFORE A HEARING UNDER THIS SECTION, A JUVENILE COURT SHALL GIVE
7 NOTICE TO ALL OF THE PARTIES.

8 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
9 5-324.1.

10 Subsection (b) of this section is new and added for completeness.

11 In subsection (a) of this section, the word "order" is substituted for the
12 former, more archaic "decree".

13 Defined terms: "Juvenile court" § 1-101

14 "Party" § 5-301

15 5-336. TIME LIMITS.

16 (A) MAXIMUM LIMIT.

17 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A JUVENILE COURT SHALL
18 RULE ON AN ADOPTION PETITION UNDER THIS PART III OF THIS SUBTITLE
19 PROMPTLY BUT NO LATER THAN 180 DAYS AFTER THE PETITION IS FILED.

20 (B) MINIMUM LIMIT.

21 A JUVENILE COURT MAY NOT ENTER AN ORDER FOR ADOPTION OF A CHILD
22 UNDER THIS PART III OF THIS SUBTITLE BEFORE THE LATER OF:

23 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD;

24 (2) EXPIRATION OF THE TIME FOR REVOCATION OF CONSENT, AND NOT
25 WAIVED, UNDER § 5-339 OF THIS SUBTITLE; OR

26 (3) EXPIRATION OF THE TIME TO RESPOND TO SHOW CAUSE ORDERS
27 ISSUED UNDER THIS SUBTITLE.

28 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
29 5-317(d), as it related to adoptions, and revised to cover consensual as well
30 as nonconsensual adoptions. Accordingly, subsection (b) of this section is
31 added to prevent entry of an order for 30 days after birth and until after
32 the revocation or show cause period expires.

33 In subsection (a) of this section, the word "promptly" is added for emphasis.

1 Defined terms: "Child" § 5-301

2 "Juvenile court" § 1-101

3 5-337. CONSIDERATIONS.

4 (A) GENERAL.

5 IN RULING ON A PETITION FOR A CHILD'S ADOPTION UNDER THIS PART III OF
6 THIS SUBTITLE, A JUVENILE COURT SHALL CONSIDER:

7 (1) ANY ASSURANCE BY A LOCAL DEPARTMENT TO FUND NEEDED
8 SUPPORT FOR THE CHILD;

9 (2) ALL FACTORS NECESSARY TO DETERMINE THE CHILD'S BEST
10 INTERESTS; AND

11 (3) A REPORT BY A CHILD PLACEMENT AGENCY, COMPLETED IN
12 ACCORDANCE WITH DEPARTMENT REGULATIONS, AS TO:

13 (I) THE SUITABILITY OF THE PETITIONER TO BE THE CHILD'S
14 PARENT; AND

15 (II) THE CHILD'S SUCCESSFUL PLACEMENT WITH THE PETITIONER
16 UNDER THE SUPERVISION OF THE LOCAL DEPARTMENT OR ITS AGENT FOR AT LEAST
17 180 DAYS OR A SHORTER PERIOD ALLOWED BY THE JUVENILE COURT ON
18 RECOMMENDATION OF THE LOCAL DEPARTMENT.

19 (B) MARITAL STATUS.

20 IN RULING ON AN ADOPTION PETITION UNDER THIS PART III OF THIS SUBTITLE,
21 A JUVENILE COURT MAY NOT DENY THE PETITION SOLELY BECAUSE THE
22 PETITIONER IS SINGLE OR UNMARRIED.

23 (C) CONSTRUCTION AS VOLUNTARY.

24 IF A PARENT CONSENTS TO ADOPTION IN ACCORDANCE WITH § 5-338 OF THIS
25 SUBTITLE, LOSS OF PARENTAL RIGHTS SHALL BE CONSIDERED VOLUNTARY.

26 COMMITTEE NOTE: Subsections (a)(1) and (b) of this section are derived from
27 former FL §§ 5-309 and 5-316(1).

28 Subsection (a)(2) of this section is new and added to state expressly that a
29 court may consider relevant factors. Accordingly, former FL § 5-316(2),
30 which provided only for consideration of religious background, is omitted
31 as unnecessary.

32 Subsection (a)(3) of this section is new and added to reflect the
33 requirements of the referenced regulations of the Department, in COMAR
34 07.02.12.10.

1 Subsection (c) of this section is new and added to delineate voluntary TPR
2 under this subtitle.

3 In subsection (a)(1) of this section, the reference to a "local department" is
4 substituted for the former reference to "the Social Services
5 Administration", to conform to current FL Title 5, Subtitle 4.

6 Also in subsection (a)(1) of this section, the former word "maintenance" is
7 omitted as included in the defined term "support".

8 In subsection (b) of this section, the reference to being "unmarried" is
9 substituted for the former reference to "not hav[ing] a spouse".

10 Defined terms: "Child" § 5-301

11 "Child placement agency" § 5-101

12 "Department" § 5-101

13 "Juvenile court" § 1-101

14 "Local department" § 1-101

15 "Parent" § 5-301

16 "Support" § 1-101

17 5-338. AUTHORITY TO GRANT ADOPTION.

18 (A) CONSENT OR ACQUIESCENCE.

19 A JUVENILE COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER
20 THIS PART III OF THIS SUBTITLE ONLY IF:

21 (1) (I) AT LEAST ONE OF THE CHILD'S PARENTS:

22 1. IS REPRESENTED BY AN ATTORNEY;

23 2. HAS HAD AN OPPORTUNITY TO RECEIVE ADOPTION
24 COUNSELING AND GUIDANCE SERVICES; AND

25 3. CONSENTS TO THE ADOPTION:

26 A. IN WRITING; OR

27 B. KNOWINGLY AND VOLUNTARILY, ON THE RECORD
28 BEFORE THE JUVENILE COURT; AND

29 (II) A PARENT WHO DOES NOT CONSENT:

30 1. IS DEAD; OR

1 "Local department" § 1-101

2 "Parent" § 5-301

3 5-339. CONSENT.

4 (A) CONTENTS AND ATTACHMENTS.

5 (1) CONSENT OF A PARENT TO AN ADOPTION UNDER THIS PART III OF
6 THIS SUBTITLE MAY INCLUDE:

7 (I) A PROVISION BARRING A PETITIONER FROM LEARNING
8 IDENTIFYING INFORMATION ABOUT THE PARENT; AND

9 (II) A WAIVER OF THE RIGHT TO NOTICE OF FURTHER
10 PROCEEDINGS UNDER THIS PART III OF THIS SUBTITLE.

11 (2) CONSENT TO ADOPTION ENTERED INTO BEFORE A JUDGE ON THE
12 RECORD SHALL INCLUDE A WAIVER OF THE REVOCATION PERIOD.

13 (3) CONSENT OF A PARTY TO AN ADOPTION UNDER THIS PART III OF
14 THIS SUBTITLE IS NOT VALID UNLESS:

15 (I) THE CONSENT IS GIVEN IN A LANGUAGE THAT THE PARTY
16 UNDERSTANDS;

17 (II) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH, THE
18 CONSENT:

19 1. IS GIVEN BEFORE A JUDGE ON THE RECORD; OR

20 2. IS ACCOMPANIED BY THE AFFIDAVIT OF A TRANSLATOR
21 STATING THAT THE TRANSLATION OF THE DOCUMENT OF CONSENT IS ACCURATE;

22 (III) THE CONSENT NAMES THE CHILD;

23 (IV) THE CONSENT CONTAINS ENOUGH INFORMATION TO IDENTIFY
24 THE PROSPECTIVE ADOPTIVE PARENT;

25 (V) THE PARTY HAS RECEIVED WRITTEN NOTICE OR ON THE
26 RECORD NOTICE OF:

27 1. THE REVOCATION PROVISIONS IN SUBSECTIONS (A)(2)
28 AND (B)(1) OF THIS SECTION;

29 2. THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER
30 § 5-359 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, PARENTS, AND
31 SIBLINGS UNDER SUBTITLE 4B OF THIS TITLE; AND

32 3. THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-359
33 OF THIS SUBTITLE; AND

1 (VI) THE CONSENT IS ACCOMPANIED BY AN AFFIDAVIT OF
2 COUNSEL APPOINTED UNDER § 5-307(A) OF THIS SUBTITLE, STATING THAT A PARENT
3 WHO IS A MINOR OR HAS A DISABILITY CONSENTS KNOWINGLY AND VOLUNTARILY.

4 (B) REVOCATION BY PARENT.

5 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PARENT MAY
6 REVOKE CONSENT TO ADOPTION UNDER THIS PART III OF THIS SUBTITLE AT ANY
7 TIME WITHIN THE LATER OF:

8 (I) 30 DAYS AFTER THE PARENT SIGNS THE CONSENT; OR

9 (II) 30 DAYS AFTER THE ADOPTION PETITION IS FILED.

10 (2) CONSENT TO ADOPTION UNDER SUBSECTION (A)(2) OF THIS SECTION
11 IS IRREVOCABLE.

12 (C) REVOCATION BY LOCAL DEPARTMENT.

13 A LOCAL DEPARTMENT MAY REVOKE CONSENT TO AN ADOPTION UNDER THIS
14 PART III OF THIS SUBTITLE AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN
15 ORDER OF ADOPTION UNDER THIS PART III OF THIS SUBTITLE.

16 (D) REVOCATION OR OBJECTION BY CHILD.

17 A CHILD MAY REVOKE CONSENT OR OBJECT TO AN ADOPTION UNDER THIS
18 PART III OF THIS SUBTITLE AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN
19 ORDER OF ADOPTION UNDER THIS PART III OF THIS SUBTITLE.

20 COMMITTEE NOTE: Subsection (a)(1)(i) and (3)(iii) and (iv) of this section is
21 new and added for completeness.

22 Subsection (a)(1)(ii) of this section is derived from former FL § 5-322(a)(2),
23 as it related to adoptions.

24 Subsections (a)(2) and (b)(2) of this section are new and added to require a
25 waiver if consent is given on-the-record.

26 Subsection (a)(3)(i) and (ii) of this section is new and added to ensure that
27 consent is given knowingly, by ensuring that the individual consenting
28 understands the consent being given. As to interpreters in connection with
29 on the record consent, *see* Md. Rule 16-819.

30 Subsection (a)(3)(v) and (vi) of this section is derived from former FL §
31 5-314, as it related to adoption, and the substance of former FL § 5-301(h)
32 and revised to apply to disabled, as well as minor, parents.

33 Subsection (b)(1) of this section is derived from former FL § 5-311(c), as it
34 related to parents, and revised to provide an alternative deadline based on
35 the filing date of the petition.

1 Subsection (c) of this section is substituted for former FL § 5-311(c), as it
2 related to a local department, to expand the revocation period.

3 Subsection (d) of this section is derived from former FL § 5-311(c)(2) and
4 revised to cover acquiescence by children not old enough for consent.

5 Former FL § 5-311(c)(3), which otherwise barred revocation, is omitted as
6 surplusage.

7 As to "minor", *see* Art. 1, § 24 of the Code.

8 Defined terms: "Adoptive parent" § 5-101

9 "Child" § 5-301

10 "Disability" § 5-101

11 "Identifying information" § 5-301

12 "Includes" § 1-101

13 "Including" § 1-101

14 "Juvenile court" § 1-101

15 "Local department" § 1-101

16 "Parent" § 5-301

17 "Party" § 5-301

18 5-340. DISMISSAL.

19 IF A PETITION FOR ADOPTION UNDER THIS PART III OF THIS SUBTITLE IS
20 CONTESTED, A JUVENILE COURT SHALL DISMISS THE PETITION.

21 COMMITTEE NOTE: This section is new and added to state expressly a
22 requirement for dismissal of a contested proceeding under this Part III.

23 Defined term: "Juvenile court" § 1-101

24 5-341. ORDER FOR ADOPTION.

25 (A) EFFECT ON PARENT-CHILD RELATIONSHIP.

26 (1) THIS SUBSECTION DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL
27 TO PROVIDE FOR DISTRIBUTION OF PROPERTY BY WILL.

28 (2) EXCEPT AS PROVIDED IN § 2-123 OF THE REAL PROPERTY ARTICLE,
29 AFTER A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS PART III
30 OF THIS SUBTITLE:

31 (I) THE ADOPTEE:

1 1. IS THE CHILD OF THE ADOPTIVE PARENT FOR ALL
2 INTENTS AND PURPOSES; AND

3 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
4 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
5 ADOPTIVE PARENT;

6 (II) EACH OF THE ADOPTEE'S LIVING PARENTS IS:

7 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
8 TO THE ADOPTEE; AND

9 2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
10 ADOPTEE; AND

11 (III) THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF
12 THE RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

13 (B) EFFECT ON PENDING CASES.

14 AN ORDER FOR ADOPTION UNDER THIS PART III OF THIS SUBTITLE
15 TERMINATES ALL PENDING CINA CASES AS TO THE ADOPTEE.

16 (C) NOTICE OF ORDER.

17 (1) WHEN A JUVENILE COURT ENTERS AN ORDER FOR A CHILD'S
18 ADOPTION UNDER THIS PART III OF THIS SUBTITLE, THE JUVENILE COURT SHALL
19 SEND NOTICE TO:

20 (I) EACH JUVENILE COURT THAT HAS A PENDING CINA CASE AS TO
21 THE ADOPTEE;

22 (II) EACH OF THE CHILD'S LIVING, FORMER PARENTS WHO HAS
23 NOT WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S LAST ATTORNEY OF
24 RECORD IN THE CINA CASE; AND

25 (III) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

26 (2) SERVICE ON A PARENT UNDER THIS SUBSECTION SHALL BE AT THE
27 PARENT'S LAST ADDRESS KNOWN TO THE JUVENILE COURT.

28 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
29 5-308(a) and (b).

30 Subsections (b) and (c) of this section are new and added to state the effect
31 on pending cases and to provide for notice of the order.

32 The introductory exception in subsection (a)(2) of this section, "[e]xcept as
33 provided in § 2-123 of the Real Property Article", is substituted for the
34 former exception "this section" - i.e., former FL § 5-308 - to reflect the
35 recodification of part of former § 5-308(d). The balance is covered by

1 subsection (a)(2)(iii) of this section.

2 In the introductory language of subsection (a)(2) of this section, the word
3 "order" is substituted for the former, more archaic "decree".

4 In subsection (a)(2) of this section, the word "adoptee" is substituted for the
5 former references to the "individual adopted", for consistency and brevity.

6 In subsection (a)(2)(i)1 and 2 of this section, the newly defined term
7 "adoptive parent" is substituted for the former references to a "petitioner",
8 for consistency.

9 In subsection (a)(2)(i)2 of this section, the reference to "offspring born" to
10 the adoptive parent is substituted for the former reference to "a child born
11 to the petitioner in wedlock", to avoid the misleading inference that
12 illegitimacy affects a right, privilege, or obligation of a biological offspring
13 or that the age of majority might affect an adoptee differently from a
14 biological offspring.

15 In subsection (a)(2)(ii) of this section, the former reference to a "natural"
16 parent is omitted to reflect that the duties and rights of nonbiological - i.e.,
17 adoptive - relatives are affected in the same manner as a biological
18 relative. Accordingly, in subsection (a)(2)(iii) of this section, a reference to
19 "parental" relatives is substituted for the former reference to "natural"
20 relatives.

21 Former FL § 5-308(c) and (e), which discounted any difference in orders as
22 to adults and minors or as to interlocutory and final orders, is omitted as
23 unnecessary.

24 Defined terms: "Adoptive parent" § 5-101

25 "Child" § 5-301

26 "CINA case" § 1-101

27 "Juvenile court" § 1-101

28 "Parent" § 5-301

29 5-342. PETITION TO INVALIDATE.

30 IF A PETITION TO INVALIDATE AN ORDER FOR ADOPTION UNDER THIS PART III
31 OF THIS SUBTITLE ON THE BASIS OF A JURISDICTIONAL OR PROCEDURAL DEFECT IS
32 FILED MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A JUVENILE COURT SHALL
33 DISMISS THE PETITION.

34 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
35 revised to require dismissal rather than barring receipt, as more consistent
36 with court practices.

1 The word "order" is substituted for the former, more archaic "decree".
2 Defined term: "Juvenile court" § 1-101

3 5-343. RESERVED.

4 5-344. RESERVED.

5 PART IV. ADOPTION AFTER TERMINATION OF PARENTAL RIGHTS.

6 5-345. PETITION.

7 (A) AUTHORIZED.

8 IF, AFTER TERMINATION OF PARENTAL RIGHTS AS TO A CHILD, THERE IS AN
9 OPEN GUARDIANSHIP CASE, A PETITION FOR ADOPTION OF THE CHILD MAY BE
10 FILED ONLY AS PROVIDED IN THIS PART IV OF THIS SUBTITLE.

11 (B) PETITIONER.

12 (1) ANY ADULT MAY PETITION A JUVENILE COURT FOR AN ADOPTION
13 UNDER THIS PART IV OF THIS SUBTITLE.

14 (2) IF A PETITIONER UNDER THIS SECTION IS MARRIED, THE
15 PETITIONER'S SPOUSE SHALL JOIN IN THE PETITION UNLESS THE SPOUSE:

16 (I) IS SEPARATED FROM THE PETITIONER UNDER A
17 CIRCUMSTANCE THAT GIVES THE PETITIONER A GROUND FOR ANNULMENT OR
18 DIVORCE; OR

19 (II) IS NOT COMPETENT TO JOIN IN THE PETITION.

20 (C) CONTENTS.

21 (1) A PETITIONER UNDER THIS SECTION SHALL ATTACH TO A PETITION:

22 (I) 1. ALL WRITTEN CONSENTS REQUIRED UNDER § 5-350 OF
23 THIS SUBTITLE; OR

24 2. IF APPLICABLE:

25 A. PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF
26 PARENTAL RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL
27 BODY OF A STATE OR OTHER JURISDICTION; AND

28 B. CERTIFICATION THAT THE GUARDIANSHIP OR
29 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS;

30 (II) A COPY OF AN AGREEMENT, IF ANY, FOR POSTADOPTION
31 CONTACT; AND

32 (III) A NOTICE OF FILING THAT:

- 1 1. STATES THE DATE ON WHICH THE PETITION WAS FILED;
- 2 2. IDENTIFIES EACH GOVERNMENTAL UNIT OR PERSON
- 3 WHOSE CONSENT WAS FILED WITH THE PETITION;
- 4 3. IF APPLICABLE, STATES THAT A POSTADOPTION
- 5 AGREEMENT WAS FILED WITH THE PETITION; AND
- 6 4. INCLUDES NO IDENTIFYING INFORMATION THAT WOULD
- 7 BE IN VIOLATION OF AN AGREEMENT OR CONSENT.

8 (2) IN ADDITION TO A COPY OF AN AGREEMENT FOR POSTADOPTION
 9 CONTACT, A PETITIONER SHALL FILE THE ORIGINAL AGREEMENT UNDER SEAL.

10 (D) AMENDED PETITION.

11 IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY OF AN
 12 ORDER, THE PETITIONER SHALL AMEND THE PETITION ACCORDINGLY.

13 COMMITTEE NOTE: Subsection (a) of this section is new and added to
 14 distinguish adoptions after termination of parental rights with an open
 15 guardianship case from those under Part III of this subtitle as to adoptions
 16 prior to termination and from those under Part II when a guardianship
 17 case is terminated after an individual is granted custody and guardianship
 18 of a child, in which case a guardian must petition for adoption under new
 19 § 5-3B-13(c).

20 Subsection (b)(1) of this section is derived from former FL § 5-309(a).

21 Subsections (b)(2) and (d) of this section are derived from former FL §
 22 5-315(a)(2) and (3) and (b).

23 Subsection (c) of this section is new and added to specify minimum
 24 requirements as to a petition under this section.

25 In subsection (d) of this section, the word "order" is substituted for the
 26 former, more archaic "decree".

27 Former FL § 5-315(a)(1), which provided an exception for the petitioner
 28 whose spouse is a parent, is omitted from this Part IV.

29 As to "adult", *see* Art. 1, § 24 of the Code.

30 Defined terms: "Child" § 5-301

31 "Guardianship" § 5-301

32 "Identifying information" § 5-301

33 "Includes" § 1-101

34 "Including" § 1-101

1 "Juvenile court" § 1-101

2 "Person" § 1-101

3 "State" § 1-101

4 5-346. NOTICE OF FILING.

5 (A) REQUIREMENT.

6 WITHIN 5 DAYS AFTER A PETITION FOR ADOPTION OF A CHILD IS FILED UNDER
7 THIS PART IV OF THIS SUBTITLE WITH A JUVENILE COURT, THE CLERK SHALL SEND
8 A COPY OF THE PETITION, WITH THE NOTICE OF FILING THAT WAS ATTACHED TO
9 THE PETITION, TO:

10 (1) THE LOCAL DEPARTMENT; AND

11 (2) THE CHILD'S LAST ATTORNEY OF RECORD IN THE GUARDIANSHIP
12 CASE.

13 (B) METHOD.

14 NOTICE UNDER THIS SECTION SHALL BE BY FIRST CLASS MAIL.

15 COMMITTEE NOTE: This section is new and added to state an express
16 requirement for notice to counsel, as well as the local department.

17 Defined terms: "Child" § 5-301

18 "Guardianship" § 5-301

19 "Juvenile court" § 1-101

20 "Local department" § 1-101

21 5-347. HEARING ON ADOPTION PETITION.

22 (A) REQUIREMENT.

23 A JUVENILE COURT SHALL HOLD A HEARING BEFORE ENTERING AN ORDER
24 FOR ADOPTION UNDER THIS PART IV OF THIS SUBTITLE.

25 (B) NOTICE.

26 BEFORE A HEARING UNDER THIS SECTION, A JUVENILE COURT SHALL GIVE
27 NOTICE TO ALL OF THE PARTIES.

28 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
29 5-324.1.

30 Subsection (b) of this section is new and added for completeness.

1 In subsection (a) of this section, the word "order" is substituted for the
2 former, more archaic "decree".

3 Defined term: "Juvenile court" § 1-101

4 5-348. TIME LIMITS.

5 (A) MAXIMUM LIMIT.

6 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A JUVENILE COURT SHALL
7 RULE ON THE ADOPTION PETITION UNDER THIS PART IV OF THIS SUBTITLE
8 PROMPTLY BUT NO LATER THAN 180 DAYS AFTER THE PETITION IS FILED.

9 (B) MINIMUM LIMIT.

10 A JUVENILE COURT MAY NOT ENTER AN ORDER FOR ADOPTION OF A CHILD
11 UNDER THIS PART IV OF THIS SUBTITLE BEFORE THE LATER OF:

12 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD; OR

13 (2) 10 DAYS AFTER THE NOTICE IS SERVED UNDER § 5-346 OF THIS
14 SUBTITLE.

15 COMMITTEE NOTE: This section is derived from former FL §§ 5-317(d) and
16 5-324, as they related to adoptions.

17 In subsection (a) of this section, the word "promptly" is added for emphasis.

18 In subsection (b)(2) of this section, the reference to 10 days after service is
19 substituted for the former reference to the revocation period, thereby
20 incorporating Md. Rule 1-203(c).

21 Defined terms: "Child" § 5-301

22 "Juvenile court" § 1-101

23 5-349. CONSIDERATIONS.

24 (A) GENERAL.

25 IN RULING ON A PETITION FOR A CHILD'S ADOPTION UNDER THIS PART IV OF
26 THIS SUBTITLE, A JUVENILE COURT SHALL CONSIDER:

27 (1) ANY ASSURANCE BY THE LOCAL DEPARTMENT TO FUND NEEDED
28 SUPPORT FOR THE CHILD;

29 (2) ALL FACTORS NECESSARY TO DETERMINE THE CHILD'S BEST
30 INTERESTS; AND

31 (3) A REPORT BY A CHILD PLACEMENT AGENCY, COMPLETED IN
32 ACCORDANCE WITH DEPARTMENT REGULATIONS, AS TO:

1 (I) THE SUITABILITY OF THE PETITIONER TO BE THE CHILD'S
2 PARENT; AND

3 (II) THE CHILD'S SUCCESSFUL PLACEMENT FOR ADOPTION WITH
4 THE PETITIONER UNDER THE SUPERVISION OF THE LOCAL DEPARTMENT OR ITS
5 AGENT FOR AT LEAST 180 DAYS OR A SHORTER PERIOD ALLOWED BY THE JUVENILE
6 COURT ON RECOMMENDATION OF THE LOCAL DEPARTMENT.

7 (B) MARITAL STATUS.

8 IN RULING ON A PETITION FOR ADOPTION UNDER THIS PART IV OF THIS
9 SUBTITLE, A JUVENILE COURT MAY NOT DENY A PETITION FOR ADOPTION SOLELY
10 BECAUSE THE PETITIONER IS SINGLE OR UNMARRIED.

11 COMMITTEE NOTE: Subsections (a)(1) and (b) of this section are derived from
12 former FL §§ 5-309 and 5-316(1).

13 Subsection (a)(2) of this section is new and added to state expressly that a
14 court may consider relevant factors. Accordingly, former FL § 5-316(2),
15 which provided only for consideration of religious background, is omitted
16 as unnecessary.

17 Subsection (a)(3) of this section is new and added to reflect the
18 requirements of the referenced regulations of the Department, in COMAR
19 07.02.12.10.

20 In subsection (a)(1) of this section, reference to a "local department" is
21 substituted for the former reference to "the Social Services
22 Administration", to conform to current FL Title 5, Subtitle 4.

23 Also in subsection (a)(1) of this section, the former word "maintenance" is
24 omitted as included in the defined term "support".

25 In subsection (b) of this section, reference to being "unmarried" is
26 substituted for the former reference to "not hav[ing] a spouse".

27 Defined terms: "Child" § 5-301

28 "Child placement agency" § 5-101

29 "Department" § 5-101

30 "Juvenile court" § 1-101

31 "Local department" § 1-101

32 "Support" § 1-101

33 5-350. AUTHORITY TO GRANT ADOPTION.

34 (A) CONSENT.

1 A JUVENILE COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER
2 THIS PART IV OF THIS SUBTITLE ONLY IF:

3 (1) FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, THE
4 INDIVIDUAL'S GUARDIAN CONSENTS; AND

5 (2) FOR AN INDIVIDUAL WHO IS AT LEAST 10 YEARS OLD, THE
6 INDIVIDUAL CONSENTS.

7 (B) WITHHOLDING CONSENT.

8 A GUARDIAN MAY NOT WITHHOLD CONSENT FOR THE SOLE REASON THAT THE
9 RACE, RELIGION, COLOR, OR NATIONAL ORIGIN OF A PROSPECTIVE ADOPTIVE
10 PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.

11 COMMITTEE NOTE: This section is derived from former FL § 5-311(b).

12 In subsection (a)(1) of this section, reference to a "guardian" of an
13 individual "under the age of 18 years" is substituted for the former
14 reference to the "executive head of the child placement agency that has
15 been awarded guardianship", for brevity and consistency with new §
16 5-328(a).

17 Subsection (b) of this section is derived from former FL § 5-311(b)(2) and
18 revised to include "color" and "national origin" but omit "where to do so
19 would be contrary to the best interests of the child", to conform to the
20 federal law.

21 Defined terms: "Adoptive parent" § 5-101

22 "Child" § 5-301

23 "Juvenile court" § 1-101

24 "Parent" § 5-301

25 5-351. CONSENT.

26 (A) CONTENTS AND ATTACHMENTS.

27 CONSENT OF A PARTY TO AN ADOPTION UNDER THIS PART IV OF THIS SUBTITLE
28 IS NOT VALID UNLESS:

29 (1) THE CONSENT IS GIVEN IN A LANGUAGE THAT THE PARTY
30 UNDERSTANDS;

31 (2) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH, THE CONSENT:

32 (I) IS GIVEN BEFORE A JUDGE ON THE RECORD; OR

33 (II) IS ACCOMPANIED BY THE AFFIDAVIT OF A TRANSLATOR
34 STATING THAT THE TRANSLATION OF THE DOCUMENT OF CONSENT IS ACCURATE;

1 (3) THE CONSENT NAMES THE CHILD;

2 (4) THE CONSENT CONTAINS ENOUGH INFORMATION TO IDENTIFY THE
3 PROSPECTIVE ADOPTIVE PARENT; AND

4 (5) THE PARTY HAS RECEIVED WRITTEN NOTICE OR ON-THE-RECORD
5 NOTICE OF:

6 (I) THE REVOCATION PROVISIONS IN THIS SECTION;

7 (II) THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER §
8 5-359 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, PARENTS, AND
9 SIBLINGS UNDER SUBTITLE 4B OF THIS TITLE; AND

10 (III) THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-359 OF
11 THIS SUBTITLE.

12 (B) REVOCATION BY GUARDIAN.

13 A GUARDIAN MAY REVOKE CONSENT TO AN ADOPTION UNDER THIS PART IV OF
14 THIS SUBTITLE AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ORDER OF
15 ADOPTION UNDER THIS PART IV OF THIS SUBTITLE.

16 (C) REVOCATION BY CHILD.

17 A CHILD MAY REVOKE CONSENT TO AN ADOPTION UNDER THIS PART IV OF THIS
18 SUBTITLE AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ORDER OF
19 ADOPTION UNDER THIS PART IV OF THIS SUBTITLE.

20 COMMITTEE NOTE: Subsection (a)(1) and (2) of this section is new and added
21 to ensure that consent is given knowingly, by ensuring that the individual
22 consenting understands the consent being given. As to interpreters in
23 connection with on-the-record consent, *see* Md. Rule 16-819.

24 Subsection (a)(3) and(4) of this section is new and added for completeness.
25 Subsection (a)(5) of this section is derived from former FL § 5-314(a).

26 Subsection (b) of this section is substituted for former FL § 5-311(c), as it
27 related to a guardian, to expand the revocation period.

28 Subsection (c) of this section is derived from former FL § 5-311(c)(2).

29 Former FL § 5-311(c)(3), which otherwise barred revocation, is omitted as
30 surplusage.

31 Defined terms: "Adoptive parent" § 5-101

32 "Child" § 5-301

33 "Juvenile court" § 1-101

34 "Parent" § 5-301

1 "Party" § 5-301

2 5-352. ORDER FOR ADOPTION.

3 (A) EFFECT ON PARENT-CHILD RELATIONSHIP.

4 (1) THIS SUBSECTION DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL
5 TO PROVIDE FOR DISTRIBUTION OF PROPERTY BY WILL.

6 (2) EXCEPT AS PROVIDED IN § 2-123 OF THE REAL PROPERTY ARTICLE,
7 AFTER A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS PART IV
8 OF THIS SUBTITLE:

9 (I) THE ADOPTEE:

10 1. IS THE CHILD OF THE ADOPTIVE PARENT FOR ALL
11 INTENTS AND PURPOSES; AND

12 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
13 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
14 ADOPTIVE PARENT;

15 (II) EACH OF THE ADOPTEE'S LIVING PARENTS IS:

16 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
17 TO THE ADOPTEE; AND

18 2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
19 ADOPTEE; AND

20 (III) THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF
21 THE RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

22 (B) EFFECT ON PENDING CASES.

23 AN ORDER FOR ADOPTION UNDER THIS PART IV OF THIS SUBTITLE
24 TERMINATES ALL PENDING GUARDIANSHIP CASES AS TO THE ADOPTEE.

25 (C) NOTICE OF ORDER.

26 (1) WHEN A JUVENILE COURT ENTERS AN ORDER FOR A CHILD'S
27 ADOPTION UNDER THIS PART IV OF THIS SUBTITLE, THE JUVENILE COURT SHALL
28 SEND NOTICE TO:

29 (I) EACH JUVENILE COURT THAT HAS A PENDING GUARDIANSHIP
30 CASE AS TO THE ADOPTEE;

31 (II) EACH OF THE CHILD'S LIVING, FORMER PARENTS WHO HAS
32 NOT WAIVED THE RIGHT TO NOTICE;

1 (III) THE FORMER PARENT'S LAST ATTORNEY OF RECORD IN THE
2 GUARDIANSHIP CASE; AND

3 (IV) THE CHILD'S LAST ATTORNEY OF RECORD IN THE
4 GUARDIANSHIP CASE.

5 (2) SERVICE ON A FORMER PARENT UNDER THIS SUBSECTION SHALL BE
6 AT THE PARENT'S LAST ADDRESS KNOWN TO THE JUVENILE COURT.

7 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
8 5-308(a) and (b).

9 Subsections (b) and (c) of this section are new and added to state the effect
10 on pending cases and to provide for notice of the order.

11 The introductory exception in subsection (a)(2) of this section, "[e]xcept as
12 provided in § 2-123 of the Real Property Article", is substituted for the
13 former exception "this section" - i.e., former FL § 5-308 - to reflect the
14 recodification of part of former § 5-308(d). The balance is covered by
15 subsection (a)(2)(iii) of this section.

16 In the introductory language of subsection (a)(2) of this section, the word
17 "order" is substituted for the former, more archaic "decree".

18 In subsection (a)(2) of this section, the word "adoptee" is substituted for the
19 former references to the "individual adopted", for consistency and brevity.

20 In subsection (a)(2)(i)1 and 2 of this section, the newly defined term
21 "adoptive parent" is substituted for the former references to a "petitioner",
22 for consistency.

23 In subsection (a)(2)(i)2 of this section, the reference to "offspring born" to
24 the adoptive parent is substituted for the former reference to "a child born
25 to the petitioner in wedlock", to avoid the misleading inference that
26 illegitimacy affects a right, privilege, or obligation of a biological offspring
27 or that the age of majority might affect an adoptee differently from a
28 biological offspring.

29 In subsection (a)(2)(ii) of this section, the former reference to a "natural"
30 parent is omitted to reflect that the duties and rights of nonbiological - i.e.,
31 adoptive - relatives are affected in the same manner as a biological
32 relative's. Accordingly, in subsection (a)(2)(iii) of this section, a reference to
33 "parental" relatives is substituted for the former reference to "natural"
34 relatives.

35 Former FL § 5-308(c) and (e), which discounted any difference in orders as
36 to adults and minors or as to interlocutory and final orders, are omitted as
37 unnecessary.

38 Defined terms: "Adoptive parent" § 5-101

1 "Child" § 5-301

2 "Guardianship" § 5-301

3 "Juvenile court" § 1-101

4 "Parent" § 5-301

5 5-353. PETITION TO INVALIDATE.

6 IF A PETITION TO INVALIDATE AN ORDER FOR ADOPTION UNDER THIS PART IV
7 OF THIS SUBTITLE ON THE BASIS OF A JURISDICTIONAL OR PROCEDURAL DEFECT IS
8 FILED MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A JUVENILE COURT SHALL
9 DISMISS THE PETITION.

10 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
11 revised to require dismissal rather than barring receipt, as more consistent
12 with court practices.

13 The word "order" is substituted for the former, more archaic "decree".

14 Defined term: "Juvenile court" § 1-101

15 5-354. RESERVED.

16 5-355. RESERVED.

17 PART V. ACCESS TO RECORDS.

18 5-356. MEDICAL AND ~~PSYCHOLOGICAL~~ MENTAL HEALTH INFORMATION.

19 (A) COMPILATION OF ADOPTEE'S RECORDS OR HISTORY.

20 A LOCAL DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO COMPILE AND
21 MAKE AVAILABLE TO A PROSPECTIVE ADOPTIVE PARENT:

22 (1) ALL OF THE PROSPECTIVE ADOPTEE'S MEDICAL AND ~~PSYCHIATRIC~~
23 MENTAL HEALTH RECORDS THAT THE LOCAL DEPARTMENT HAS; OR

24 (2) A COMPREHENSIVE MEDICAL AND ~~PSYCHIATRIC~~ MENTAL HEALTH
25 HISTORY OF THE PROSPECTIVE ADOPTEE.

26 (B) COMPILATION OF PARENTAL HISTORY.

27 ON REQUEST OF AN ADOPTIVE OR PROSPECTIVE ADOPTIVE PARENT, A LOCAL
28 DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO COMPILE A PERTINENT
29 MEDICAL AND ~~PSYCHIATRIC~~ MENTAL HEALTH HISTORY OF EACH OF THE
30 PROSPECTIVE ADOPTEE'S OR ADOPTEE'S PARENTS OR FORMER PARENTS, IF
31 AVAILABLE TO THE LOCAL DEPARTMENT, AND TO MAKE THE HISTORY AVAILABLE
32 TO THE ADOPTIVE OR PROSPECTIVE ADOPTIVE PARENT.

33 (C) LATER RECEIVED INFORMATION.

1 (1) IF, AFTER ADOPTION, A LOCAL DEPARTMENT RECEIVES MEDICAL OR
 2 ~~PSYCHOLOGICAL~~ MENTAL HEALTH INFORMATION ABOUT THE ADOPTEE OR
 3 ADOPTEE'S FORMER PARENT, THE LOCAL DEPARTMENT SHALL MAKE REASONABLE
 4 EFFORTS TO MAKE THE INFORMATION AVAILABLE TO THE ADOPTIVE PARENT.

5 (2) IF, AFTER ADOPTION, THE ADOPTIVE PARENT REQUESTS
 6 ADDITIONAL INFORMATION, THE LOCAL DEPARTMENT SHALL MAKE REASONABLE
 7 EFFORTS TO NOTIFY THE FORMER PARENT, AT THE FORMER PARENT'S LAST KNOWN
 8 ADDRESS AVAILABLE TO THE LOCAL DEPARTMENT, OF THE REQUEST AND THE
 9 REASON FOR THE REQUEST.

10 (D) EXCLUSION OF IDENTIFYING INFORMATION.

11 A MEDICAL OR ~~PSYCHIATRIC~~ MENTAL HEALTH HISTORY COMPILED UNDER
 12 THIS SECTION MAY NOT CONTAIN IDENTIFYING INFORMATION ABOUT A PARENT OR
 13 FORMER PARENT.

14 COMMITTEE NOTE: Subsection (a) of this section is new and added to provide
 15 for a local department to compile information on a prospective adoptee
 16 available to the department, including any dental records.

17 Subsections (b) and (d) of this section are derived from former FL § 5-328.

18 Subsection (c) of this section is new and added to ensure transmittal of
 19 later discovered information about an adoptee and, even without a request
 20 under subsection (b), a former parent.

21 In subsections (b) and (d) of this section, the references to "~~psychiatric~~"
 22 "mental health" records are added to ensure inclusion of such information
 23 as available, without identifying information.

24 In subsection (b) of this section, the reference to a "request" is added to
 25 obviate the need to compile information that a prospective or adoptive
 26 parent does not want.

27 Also in subsection (b) of this section, "reasonable efforts" and "if available"
 28 are added to reflect that a local department may be unable to compile all of
 29 the information or contact a parent after an adoption.

30 Also in subsection (b) of this section, the newly defined term "local
 31 department" is substituted for the former reference to a "person authorized
 32 to place a minor child for adoption", for brevity and consistency with the
 33 revised scope of this subtitle.

34 In subsection (d) of this section, the defined term "identifying information"
 35 is substituted for the former, limited reference to "identity".

36 Also in subsection (d) of this section, the former word "natural" is omitted,
 37 to reflect that the parental rights of a nonbiological - i.e., adoptive-parent
 38 can be terminated in the same manner as a biological parent's can and

1 identifying information about such parent should be protected as well.

2 Defined terms: "Adoptive parent" § 5-101

3 "Identifying information" § 5-301

4 "Local department" § 1-101

5 "Parent" § 5-301

6 5-357. COURT AND DEPARTMENT RECORDS.

7 (A) ACCESS.

8 (1) (I) ON REQUEST OF AN ADOPTEE OR ADOPTIVE OR FORMER
9 PARENT OF AN ADOPTEE AND WITHOUT A SHOWING OF A NEED, A LOCAL
10 DEPARTMENT SHALL PROVIDE INFORMATION, OTHER THAN IDENTIFYING
11 INFORMATION, IN ITS ADOPTION RECORD ON THE ADOPTEE.

12 (II) IF A LOCAL DEPARTMENT DENIES A REQUEST UNDER THIS
13 PARAGRAPH, THEN ON PETITION OF AN ADOPTEE OR ADOPTIVE OR FORMER PARENT
14 AND WITHOUT A SHOWING OF NEED, A JUVENILE COURT SHALL ORDER ACCESS FOR
15 THE PETITIONER TO INSPECT, IN ACCORDANCE WITH SUBSECTION (B) OF THIS
16 SECTION, THE LOCAL DEPARTMENT'S RECORD ON THE ADOPTEE.

17 (2) ON PETITION OF AN ADOPTEE OR ADOPTIVE OR FORMER PARENT OF
18 AN ADOPTEE AND WITHOUT A SHOWING OF NEED, A JUVENILE COURT SHALL ORDER
19 ACCESS FOR THE PETITIONER TO INSPECT, IN ACCORDANCE WITH SUBSECTION (B)
20 OF THIS SECTION, THE JUVENILE COURT'S RECORD ON THE ADOPTEE.

21 (B) PROTECTION OF IDENTIFYING INFORMATION.

22 A JUVENILE COURT MAY NOT ORDER OPENED FOR INSPECTION UNDER THIS
23 SECTION ANY PART OF A RECORD THAT CONTAINS IDENTIFYING INFORMATION.

24 COMMITTEE NOTE: This section is derived from former FL § 5-329(a) and
25 (b).

26 In subsection (a)(1) and (2) of this section, the references to an "adoptive or
27 former parent" are substituted for the former references to a "birth
28 parent", to encompass all individuals who currently are or at any time
29 previously have been a "parent". Accordingly, in subsection (b) of this
30 section, the former reference to a "former" parent is omitted.

31 In subsection (a)(1) of this section, the newly defined term "local
32 department" is substituted for the former references to a "child placement
33 agency", for brevity and consistency with the revised scope of this subtitle.

34 Defined terms: "Adoptive parent" § 5-101

35 "Identifying information" § 5-301

36 "Juvenile court" § 1-101

1 "Local department" § 1-101

2 "Parent" § 5-301

3 5-358. URGENTLY NEEDED MEDICAL INFORMATION.

4 (A) HEARING ON NEED.

5 IF, AFTER A HEARING ON A PETITION OF AN ADOPTEE OR FORMER PARENT, A
6 JUVENILE COURT IS SATISFIED THAT THE ADOPTEE OR BLOOD RELATIVE OF THE
7 ADOPTEE OR FORMER PARENT URGENTLY NEEDS MEDICAL INFORMATION NOT IN
8 LOCAL DEPARTMENT AND JUVENILE COURT RECORDS, THE JUVENILE COURT MAY
9 APPOINT AN INTERMEDIARY TO TRY TO CONTACT THE ADOPTEE OR A FORMER
10 PARENT OF THE ADOPTEE FOR THE INFORMATION.

11 (B) ROLE OF INTERMEDIARY.

12 AN INTERMEDIARY APPOINTED UNDER THIS SECTION:

13 (1) MAY ONLY ADVISE AN ADOPTEE OR FORMER PARENT OF THE NEED
14 FOR MEDICAL INFORMATION; AND

15 (2) MAY NOT:

16 (I) REVEAL ANY IDENTIFYING INFORMATION ABOUT AN ADOPTEE
17 OR FORMER PARENT; OR

18 (II) TRY, IN ANY MANNER, TO ENCOURAGE OR DISCOURAGE
19 CONTACT BETWEEN AN ADOPTEE AND FORMER PARENT.

20 (C) REPORT TO COURT.

21 AN INTERMEDIARY APPOINTED UNDER THIS SECTION SHALL FILE WITH THE
22 APPOINTING JUVENILE COURT A CONFIDENTIAL WRITTEN REPORT ON THE
23 INTERMEDIARY'S EFFORTS TO CONTACT AN ADOPTEE OR FORMER PARENT.

24 (D) DISCLOSURE BY COURT.

25 WHEN A JUVENILE COURT RECEIVES A REPORT FROM AN INTERMEDIARY, THE
26 JUVENILE COURT MAY DISCLOSE TO THE ADOPTEE OR FORMER PARENT, WITHOUT
27 REVEALING IDENTIFYING INFORMATION ABOUT AN ADOPTEE OR FORMER PARENT:

28 (1) WHETHER THE INTERMEDIARY ADVISED AN ADOPTEE OR FORMER
29 PARENT ABOUT THE NEED FOR MEDICAL INFORMATION; AND

30 (2) MEDICAL INFORMATION THAT THE ADOPTEE OR A FORMER PARENT
31 PROVIDED.

32 (E) COMPENSATION.

1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A JUVENILE COURT MAY
2 ORDER AN ADOPTEE OR FORMER PARENT TO PAY A REASONABLE FEE FOR THE
3 SERVICES OF AN INTERMEDIARY UNDER THIS SECTION.

4 COMMITTEE NOTE: This section is derived from former FL § 5-329(c)
5 through (e) and revised to clarify that an intermediary is allowed to contact
6 only a former parent and not a spouse, child, or other family member of a
7 former parent.

8 Throughout this section, references to a "former" parent are substituted for
9 the former references to a "birth" parent, to recognize that, e.g., a former
10 parent, by adoption, may have information about an adoptee or biological
11 parent.

12 In subsection (a) of this section, the newly defined term "local department"
13 is substituted for the former reference to the "child placement agency", for
14 brevity and consistency with the revised scope of this subtitle.

15 Also in subsection (a) of this section, the former reference to "evidence
16 presented at the hearing" is omitted as unnecessary in light of the rules
17 governing proceedings generally and as potentially overnarrow should a
18 court request memoranda or other submissions to which an opposing party
19 has an opportunity to respond.

20 Defined terms: "Identifying information" § 5-301

21 "Juvenile court" § 1-101

22 "Local department" § 1-101

23 "Parent" § 5-301

24 5-359. VITAL RECORDS.

25 (A) DEFINITIONS.

26 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 STATED.

28 (2) "DIRECTOR" MEANS THE STATE DIRECTOR OF SOCIAL SERVICES.

29 (3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
30 HYGIENE.

31 (B) SCOPE OF SECTION.

32 THIS SECTION APPLIES ONLY TO AN ADOPTION IN WHICH A JUVENILE COURT
33 ENTERS AN ORDER FOR ADOPTION ON OR AFTER JANUARY 1, 2000.

34 (C) CONSTRUCTION OF SECTION.

35 THIS SECTION DOES NOT BAR:

1 (1) AN ADOPTEE OR BIOLOGICAL PARENT FROM APPLYING FOR SEARCH,
2 CONTACT, AND REUNION SERVICES UNDER SUBTITLE 4B OF THIS TITLE; OR

3 (2) THE DIRECTOR OR A CONFIDENTIAL INTERMEDIARY FROM
4 OBTAINING A COPY OF A RECORD UNDER § 5-4B-04(C) OR § 5-4B-06(B) OR (C) OF THIS
5 TITLE.

6 (D) APPLICATION FOR RECORD.

7 (1) AN ADOPTEE WHO IS AT LEAST 21 YEARS OLD MAY APPLY TO THE
8 SECRETARY FOR A COPY OF:

9 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

10 (II) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
11 CERTIFICATE OF BIRTH, IF ANY; AND

12 (III) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED
13 BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

14 (2) IF AN ADOPTEE IS AT LEAST 21 YEARS OLD, A BIOLOGICAL PARENT
15 OF THE ADOPTEE MAY APPLY TO THE SECRETARY FOR A COPY OF:

16 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

17 (II) THE NEW CERTIFICATE OF BIRTH, IF ANY, THAT WAS
18 SUBSTITUTED, UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE, FOR THE
19 ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

20 (III) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
21 CERTIFICATE OF BIRTH; AND

22 (IV) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED
23 BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

24 (3) EACH APPLICANT UNDER THIS SUBSECTION SHALL:

25 (I) PROVIDE ALL PROOF OF IDENTITY AND OTHER RELEVANT
26 INFORMATION THAT THE SECRETARY REQUIRES; AND

27 (II) PAY THE FEE REQUIRED UNDER TITLE 4, SUBTITLE 2 OF THE
28 HEALTH - GENERAL ARTICLE FOR A COPY OF A RECORD.

29 (E) DISCLOSURE VETO.

30 (1) A BIOLOGICAL PARENT MAY:

31 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
32 DISCLOSURE OF INFORMATION ABOUT THAT PARENT IN A RECORD ACCESSIBLE
33 UNDER THIS SECTION;

1 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

2 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

3 (2) AN ADOPTEE AT LEAST 21 YEARS OLD MAY:

4 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
5 DISCLOSURE OF INFORMATION ABOUT THE ADOPTEE IN A RECORD ACCESSIBLE
6 UNDER THIS SECTION;

7 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

8 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

9 (3) IMMEDIATELY AFTER THE DIRECTOR RECEIVES A DISCLOSURE VETO
10 OR CANCELLATION UNDER THIS SUBSECTION, THE DIRECTOR SHALL FORWARD A
11 COPY TO THE SECRETARY.

12 (F) DUTIES OF SECRETARY.

13 (1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
14 SECTION.

15 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE
16 SECRETARY SHALL GIVE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF
17 THIS SECTION A COPY OF EACH RECORD THAT THE APPLICANT REQUESTED AND
18 THAT THE SECRETARY HAS ON FILE.

19 (3) WHENEVER A BIOLOGICAL PARENT APPLIES FOR A RECORD, THE
20 SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO:

21 (I) THE OTHER BIOLOGICAL PARENT, IF THAT PARENT HAS FILED
22 A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION; AND

23 (II) THE ADOPTEE AND EACH ADOPTIVE PARENT, IF THE ADOPTEE
24 HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

25 (4) WHENEVER AN ADOPTEE APPLIES FOR A RECORD, THE SECRETARY
26 SHALL REDACT FROM THE COPY ALL INFORMATION AS TO A BIOLOGICAL PARENT, IF
27 THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

28 (5) THE SECRETARY SHALL GIVE EACH APPLICANT UNDER THIS
29 SECTION NOTICE OF THE ADOPTION SEARCH, CONTACT, AND REUNION SERVICES
30 AVAILABLE UNDER SUBTITLE 4B OF THIS TITLE.

31 COMMITTEE NOTE: Subsection (a) of this section is new and added to allow
32 concise reference to the Director and Secretary.

33 Subsections (b) through (f) of this section are derived from former FL §§
34 5-3A-01 through 5-3A-07.

1 In subsection (e)(3) of this section, a duty to forward a cancellation is
2 added, for completeness.

3 Defined terms: "Adoptive parent" § 5-101

4 "Director" § 5-359

5 "Juvenile court" § 1-101

6 "Parent" § 5-301

7 "Secretary" § 5-359

8 5-360. RESERVED.

9 5-361. RESERVED.

10 PART VI. PROHIBITED ACTS.

11 5-362. PROHIBITED PAYMENTS.

12 (A) PROHIBITED ACT.

13 EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON MAY NOT CHARGE OR
14 RECEIVE, FROM OR FOR A PARENT OR PROSPECTIVE ADOPTIVE PARENT, ANY
15 COMPENSATION FOR A SERVICE IN CONNECTION WITH:

16 (1) PLACEMENT OF AN INDIVIDUAL TO LIVE WITH A PREADOPTIVE
17 PARENT, AS DEFINED IN § 3-823(I)(1) OF THE COURTS ARTICLE; OR

18 (2) AN AGREEMENT FOR CUSTODY IN CONTEMPLATION OF ADOPTION.

19 (B) CONSTRUCTION OF SECTION.

20 (1) IN THIS SUBSECTION, "ADMINISTRATION" MEANS THE SOCIAL
21 SERVICES ADMINISTRATION OF THE DEPARTMENT.

22 (2) THIS SECTION DOES NOT:

23 (I) PROHIBIT PAYMENT, BY AN INTERESTED PERSON, OF A
24 CUSTOMARY AND REASONABLE CHARGE OR FEE FOR HOSPITAL, LEGAL, OR MEDICAL
25 SERVICES; OR

26 (II) PREVENT THE ADMINISTRATION, OR A PERSON THAT THE
27 ADMINISTRATION LICENSES OR SUPERVISES, FROM RECEIVING AND ACCEPTING
28 REASONABLE REIMBURSEMENT FOR COSTS OF AN ADOPTIVE SERVICE IN
29 CONNECTION WITH ADOPTION, IF:

30 1. THE REIMBURSEMENT IS IN ACCORDANCE WITH
31 STANDARDS SET BY REGULATION OF THE ADMINISTRATION; AND

1 In subsection (d) of this section, reference to a violation of "any provision"
2 is added to clarify that a prosecutor need not show violation of every
3 provision.

4 Defined terms: "Administration" § 5-362

5 "Adoptive parent" § 5-101

6 "Department" § 5-101

7 "Parent" § 5-301

8 "Person" § 1-101

9 SUBTITLE 3A. PRIVATE AGENCY GUARDIANSHIP AND ADOPTION.

10 PART I. GENERAL PROVISIONS.

11 5-3A-01. DEFINITIONS.

12 (A) IN GENERAL.

13 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

14 COMMITTEE NOTE: This subsection formerly was FL § 5-301(a). Only a
15 stylistic change is made.

16 (B) CHILD.

17 "CHILD" MEANS AN INDIVIDUAL WHO IS THE SUBJECT OF A GUARDIANSHIP OR
18 ADOPTION PETITION UNDER THIS SUBTITLE.

19 COMMITTEE NOTE: This subsection is new and added to allow concise
20 reference to the subject of a petition under this subtitle. Use of the word
21 "child" as the defined term reflects that, in some instances, a petition must
22 be filed during the minority of the subject and, in any event, that most
23 petitions involve minors. Such usage, however, is not intended to suggest
24 that an individual who is a minor when a petition is filed will not be an
25 adult by the time a court rules on the petition.

26 Defined term: "Guardianship" § 5-3A-01

27 (C) GUARDIANSHIP.

28 "GUARDIANSHIP" MEANS AN AWARD, UNDER THIS SUBTITLE, OF ANY POWER OF
29 A GUARDIAN.

30 COMMITTEE NOTE: This subsection is substituted for former FL § 5-301,
31 which defined "guardianship" in terms of the right to consent to adoption
32 or long-term care short of adoption, to conform to the scope of this subtitle.

1 (D) IDENTIFYING INFORMATION. "IDENTIFYING INFORMATION" MEANS
2 INFORMATION THAT REVEALS THE IDENTITY OR LOCATION OF AN INDIVIDUAL.

3 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(i) and
4 restated in positive, rather than negative, terms, for consistency with
5 comparable provisions such as current FL § 5-701(i).

6 (E) PARENT.

7 (1) "PARENT" MEANS AN INDIVIDUAL WHO, AT THE TIME A PETITION
8 FOR GUARDIANSHIP OR ADOPTION IS FILED UNDER THIS SUBTITLE OR AT ANY TIME
9 BEFORE A COURT TERMINATES THE INDIVIDUAL'S PARENTAL RIGHTS:

10 (I) MEETS A CRITERION IN § 5-3A-06(A) OF THIS SUBTITLE; OR

11 (II) IS THE MOTHER.

12 (2) "PARENT" DOES NOT INCLUDE AN INDIVIDUAL WHOM A COURT HAS
13 ADJUDICATED NOT TO BE A FATHER OR MOTHER.

14 COMMITTEE NOTE: This subsection is new and added to allow concise
15 reference to an individual who is a party to, or has the right to notice of, a
16 case under this subtitle due to a parental relationship.

17 Defined terms: "Guardianship" § 5-3A-01

18 "Includes" § 1-101

19 "Including" § 1-101

20 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in new
21 § 5-3A-01, definitions in §§ 1-101 and 5-101 of this article apply to this
22 subtitle.

23 5-3A-02. SCOPE OF SUBTITLE.

24 (A) APPLICATION.

25 THIS SUBTITLE APPLIES ONLY TO:

26 (1) GUARDIANSHIP BY A CHILD PLACEMENT AGENCY OF A CHILD OTHER
27 THAN A CHILD IN NEED OF ASSISTANCE; AND

28 (2) ADOPTION OF THE CHILD.

29 (B) EFFECT.

30 EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBTITLE, THIS SUBTITLE DOES NOT
31 APPLY TO ANY CASE PENDING ON OR BEFORE ~~SEPTEMBER 30~~ DECEMBER 31, 2005.

32 COMMITTEE NOTE: Subsection (a) of this section is new and added to make
33 clear the scope of this subtitle.

1 Subsection (b) of this section is substituted for former FL § 5-302, which
 2 stated the effect of the former FL provisions and became obsolete with the
 3 enactment of this subtitle. This substitution is not intended to limit the
 4 access to records in cases filed ~~or postadoption contact agreements entered~~
 5 ~~into on or before October 1, 2005~~ on or before September 30 December 31,
 6 2005.

7 Defined terms: "Child" § 5-3A-01

8 "Child in need of assistance" § 1-101

9 "Child placement agency" § 5-101

10 "Guardianship" § 5-3A-01

11 5-3A-03. STATEMENT OF FINDINGS; PURPOSES.

12 (A) STATEMENT OF FINDINGS.

13 THE GENERAL ASSEMBLY FINDS THAT THE POLICIES AND PROCEDURES OF
 14 THIS SUBTITLE ARE DESIRABLE AND SOCIALLY NECESSARY.

15 (B) PURPOSES.

16 THE PURPOSES OF THIS SUBTITLE ARE TO:

17 (1) TIMELY PROVIDE PERMANENT AND SAFE HOMES FOR CHILDREN
 18 CONSISTENT WITH THEIR BEST INTERESTS;

19 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
 20 THEIR PARENTS;

21 (3) ENSURE ADOPTION ONLY BY INDIVIDUALS FIT FOR THE
 22 RESPONSIBILITY;

23 (4) PROTECT PARENTS FROM MAKING HURRIED OR ILL-CONSIDERED
 24 AGREEMENTS TO TERMINATE PARENTAL RIGHTS;

25 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY PROVIDING THEM
 26 INFORMATION ABOUT PROSPECTIVE ADOPTEES AND THEIR BACKGROUNDS; AND

27 (6) PROTECT ADOPTIVE PARENTS FROM A FUTURE DISTURBANCE OF
 28 THEIR RELATIONSHIP WITH ADOPTEES BY FORMER PARENTS.

29 COMMITTEE NOTE: This section is derived from former FL § 5-303.

30 In subsection (a) of this section, the former clause "that concern adoption"
 31 is deleted as the findings apply to guardianship as well.

32 In subsection (b)(1) of this section, reference to "timely" provision of
 33 "permanent and safe homes ... consistent with [the children's] best
 34 interests" is substituted for the former reference to "stable homes that

1 protect ... safety and health", to emphasize the need for prompt resolution
2 of a case in accordance with the "best interests" standard applicable under,
3 e.g., former FL §§ 5-308, 5-311, 5-313, and 5-317.

4 In subsection (b)(2) and (4) of this section, the former word "natural" is
5 omitted to reflect that the parental rights of a nonbiological - i. e., adoptive
6 - parent can be terminated in the same manner as a biological parent's
7 can. Similarly, in subsection (b)(6) of this section, the word "former" is
8 substituted for "natural", to encompass all individuals who have at any
9 time previously been a "parent".

10 In subsection (b)(5) of this section, the word "prospective" is added to
11 modify "adoptive parents", to reflect that information is provided before
12 completion of an adoption.

13 Defined terms: "Adoptive parent" § 5-101

14 "Child" § 5-3A-01

15 "Parent" § 5-3A-01

16 5-3A-04. RELATIONSHIP WITH TITLE 5, SUBTITLE 5.

17 THIS SUBTITLE IS RELATED TO AND SHOULD BE READ IN RELATION TO
18 SUBTITLE 5 OF THIS TITLE.

19 COMMITTEE NOTE: This section formerly was FL § 5-304. No change is
20 made.

21 5-3A-05. FOREIGN ORDERS.

22 (A) "ORDER" DEFINED.

23 IN THIS SECTION, "ORDER" INCLUDES ANY ACTION THAT, UNDER THE LAWS OF
24 ANOTHER JURISDICTION, HAS THE FORCE AND EFFECT OF A COMPARABLE JUDICIAL
25 ORDER UNDER THIS SUBTITLE.

26 (B) ORDER OF ANOTHER STATE.

27 IN ACCORDANCE WITH THE UNITED STATES CONSTITUTION, THIS STATE SHALL
28 ACCORD FULL FAITH AND CREDIT TO:

29 (1) AN ORDER OF ANOTHER STATE AS TO ADOPTION OR GUARDIANSHIP
30 IN COMPLIANCE WITH THE OTHER STATE'S LAWS; AND

31 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
32 OTHER STATE'S LAWS.

33 (C) OTHER FOREIGN ORDERS.

34 AS TO A JURISDICTION OTHER THAN A STATE:

1 (1) AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN
2 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
3 EFFECT AS AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS STATE;
4 AND

5 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
6 JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL EFFECT AS TERMINATION OF
7 PARENTAL RIGHTS IN THIS STATE.

8 (D) CONSTRUCTION.

9 THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL TO
10 PETITION A COURT IN THIS STATE FOR ADOPTION OF AN ADOPTEE IF:

11 (1) THE INDIVIDUAL ADOPTED THE ADOPTEE IN COMPLIANCE WITH
12 THE LAWS OF A JURISDICTION OTHER THAN A STATE; AND

13 (2) THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
14 VERIFIES THE VALIDITY OF THAT ADOPTION BY GRANTING, UNDER THE FEDERAL
15 IMMIGRATION AND NATIONALITY ACT, AN IR-3 VISA FOR THE ADOPTEE.

16 COMMITTEE NOTE: Subsection (a) of this section is new and added to cover
17 administrative or other nonjudicial orders or proceedings that, under the
18 laws of another jurisdiction, have the force and effect of a comparable
19 judicial order.

20 Subsections(b)(1) and(c)(1) of this section are derived from former FL §
21 5-326 but bifurcated to reflect that the full faith and credit clause is
22 applicable to "states" as provided in "the United States Constitution".
23 Accordingly, in subsections (a) and (b) of this section, respectively, the
24 defined term "state" and the reference to a "jurisdiction other than a state"
25 are substituted for the former term "jurisdiction". Subsections (b)(1) and
26 (c)(1) are revised to cover orders for "guardianship", as well.

27 Subsections (b)(2) and (c)(2) of this section are added to provide expressly
28 for recognition of foreign orders relating to termination of parental rights.

29 Subsection (d) of this section is derived from former FL § 5-313.1.

30 In subsections (b)(1) and(c)(1) of this section, references to "compliance
31 with the ... laws" are added to state expressly that an order being
32 recognized must be a lawful order.

33 Also in subsections (b)(1) and (c)(1) of this section, the word "order" is
34 substituted for the former, more archaic "decree".

35 In subsection (d)(2) of this section, reference to the "Citizenship and
36 Immigration Services" is substituted for the former, obsolete reference to
37 the "Immigration and Naturalization Service".

38 Defined terms: "Guardianship" § 5-3A-01

1 "Includes" § 1-101

2 "Including" § 1-101

3 "Order" § 5-3A-05

4 "State" § 1-101

5 5-3A-06. PATERNITY.

6 (A) ~~PRESUMPTION~~ IN GENERAL.

7 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
8 FATHER IF:

9 (1) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
10 THE CHILD'S CONCEPTION;

11 (2) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
12 THE CHILD'S BIRTH;

13 (3) THE MAN IS NAMED AS THE FATHER ON THE CHILD'S BIRTH
14 CERTIFICATE AND HAS NOT SIGNED A DENIAL OF PATERNITY;

15 (4) THE CHILD'S MOTHER HAS NAMED THE MAN AS THE CHILD'S FATHER
16 AND THE MAN HAS NOT SIGNED A DENIAL OF PATERNITY;

17 (5) THE MAN HAS BEEN ADJUDICATED TO BE THE CHILD'S FATHER;

18 (6) THE MAN HAS ACKNOWLEDGED HIMSELF, ORALLY OR IN WRITING,
19 TO BE THE CHILD'S FATHER AND THE MOTHER AGREES; OR

20 (7) ON THE BASIS OF GENETIC TESTING, THE MAN IS INDICATED TO BE
21 THE CHILD'S BIOLOGICAL FATHER.

22 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

23 (1) A PETITIONER UNDER THIS SUBTITLE SHALL GIVE A COURT NOTICE
24 THAT A MAN WHO IS NOT NAMED IN THE PETITION AND HAS NOT BEEN EXCLUDED
25 AS A FATHER CLAIMS PATERNITY.

26 (2) AFTER A REQUEST OF A PARTY OR CLAIMANT AND BEFORE RULING
27 ON A PETITION FOR GUARDIANSHIP OR ADOPTION UNDER THIS SUBTITLE, A COURT
28 SHALL HOLD A HEARING ON THE ISSUE OF PATERNITY.

29 COMMITTEE NOTE: Subsections (a)(1) through (6) and (b) of this section are
30 derived from former FL § 5-310.

31 Subsection (a)(7) of this section is new and added to reflect the increasing
32 reliance on the accuracy of genetic testing.

1 The introductory clause of subsection (a) of this section, "[u]nless a court
2 excludes a man as the father of a child", is substituted for the former
3 disclaimer "unless ... his nonpaternity has been established to the
4 satisfaction of the court by affidavit or testimony", which pertained only to
5 the provisions revised in subsection (a)(3) and (4) of this section, as a
6 finding by a court should pertain to all of the criteria under subsection (a)
7 of this section.

8 In subsection (b)(1) of this section, the word "man" is substituted for the
9 former reference to "an individual who does not meet the criteria for being
10 a natural father ... claims to be the natural father", for brevity and to
11 reflect that fatherhood could result from, e.g., an earlier adoption.

12 In subsection (b)(2) of this section, the limitation "before ruling on a
13 petition for guardianship or adoption" is added to clarify the period during
14 which a court may act.

15 Also in subsection (b)(2) of this section, the reference to a "request of a
16 party or claimant" is substituted for the former reference to "receipt of
17 notice", to allow a claimant, as well as a petitioner, to request a hearing but
18 obviate the need for a hearing if no one requests one.

19 Defined terms: "Child" § 5-3A-01

20 "Guardianship" § 5-3A-01

21 5-3A-07. APPOINTED COUNSEL.

22 (A) PARENT.

23 (1) IN A CASE UNDER THIS SUBTITLE, A COURT SHALL APPOINT AN
24 ATTORNEY TO REPRESENT A PARENT WHO:

25 (I) HAS A DISABILITY THAT MAKES THE PARENT INCAPABLE OF
26 EFFECTIVELY PARTICIPATING IN THE CASE; OR

27 (II) WHEN THE PARENT MUST DECIDE WHETHER TO CONSENT
28 UNDER THIS SUBTITLE, IS STILL A MINOR.

29 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PARENT
30 INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS OWN
31 MOTION OR ON MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE PARENT.

32 (B) CHILD.

33 (1) IN A CASE UNDER THIS SUBTITLE, A COURT ~~MAY~~ SHALL APPOINT AN
34 ATTORNEY TO REPRESENT A CHILD ~~WHO~~:

35 (I) WHO HAS A DISABILITY THAT MAKES THE CHILD INCAPABLE
36 OF EFFECTIVELY PARTICIPATING IN THE CASE; OR

1 (II) IS A MINOR IF THE CHILD MUST DECIDE WHETHER TO
2 CONSENT TO THE ADOPTION, WHO IS AT LEAST 10 YEARS OLD.

3 (2) TO DETERMINE WHETHER A DISABILITY MAKES A CHILD INCAPABLE
4 OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS OWN MOTION OR ON
5 MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE CHILD.

6 (C) DUAL REPRESENTATION.

7 AN ATTORNEY OR FIRM:

8 (1) MAY REPRESENT MORE THAN ONE PARTY IN A CASE UNDER THIS
9 SUBTITLE ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT ALLOW; AND

10 (2) MAY NOT REPRESENT A PROSPECTIVE ADOPTIVE PARENT AND
11 PARENT IN THE SAME CASE.

12 (D) COMPENSATION.

13 COUNSEL APPOINTED UNDER THIS SECTION MAY BE COMPENSATED FOR
14 REASONABLE FEES, AS APPROVED BY THE COURT.

15 COMMITTEE NOTE: Subsection (a)(1)(i) of this section is derived from former
16 FL § 5-323(a)(1)(ii), as it related to adoptions.

17 Subsection (a)(1)(ii) of this section is derived from former FL §
18 5-323(a)(1)(iii), as it related to adoptions, and the substance of former FL
19 § 5-301(h).

20 Subsections (a)(2) and (b)(2) of this section are derived from former FL §
21 5-323(c).

22 Subsection (b)(1)(i) of this section is derived from former FL §
23 5-323(a)(1)(i), as it related to adoptions, and revised to be discretionary,
24 rather than mandatory.

25 Subsection (b)(1)(ii) of this section is new and added to allow appointment
26 of counsel for minors.

27 Subsection (c) of this section is substituted for former FL § 5-323(e), to
28 ensure that dual representation is allowed under this subtitle only if not
29 inconsistent with the Md. Rules of Professional Conduct and, in any event,
30 not for both the prospective adoptive parent and parent.

31 Subsection (d) of this section is derived from the first sentence of former
32 FL § 5-323(d).

33 In subsection (a) of this section, the former word "natural" is deleted as a
34 nonbiological - i.e., adoptive - parent can allow adoption in the same
35 manner as a biological parent can.

1 In subsection (a)(1)(i) of this section, reference to "effectively participating"
2 is substituted for the former reference to "consenting and effectively
3 participating", to conform to former FL § 5-323(c) - subsection (a)(2) of this
4 section-which, by reference to "consenting and otherwise effectively
5 participating", made clear that consent is part of effective participation.

6 In subsections (a)(2) and (b) of this section, the newly defined terms
7 "parent" and "child" are substituted for the former word "individual" for
8 consistency with other provisions of this section.

9 Former FL § 5-323(a)(1)(iv), which provided for representation in a
10 contested adoption case, is omitted from this subtitle.

11 As to "minor", *see* Art. 1, § 24 of the Code.

12 Defined terms: "Adoptive parent" § 5-101

13 "Child" § 5-3A-01

14 "Disability" § 5-101

15 "Parent" § 5-3A-01

16 5-3A-08. AGREEMENT FOR POSTADOPTION CONTACT.

17 (A) AUTHORIZED.

18 (1) A PROSPECTIVE ADOPTIVE PARENT AND PARENT OF A PROSPECTIVE
19 ADOPTEE UNDER THIS SUBTITLE MAY ENTER INTO A WRITTEN AGREEMENT TO
20 ALLOW CONTACT, AFTER THE ADOPTION, BETWEEN:

21 (I) THE PARENT OR OTHER RELATIVE OF THE ADOPTEE; AND

22 (II) THE ADOPTEE OR ADOPTIVE PARENT.

23 (2) AN ADOPTIVE PARENT AND FORMER PARENT OF AN ADOPTEE
24 UNDER THIS SUBTITLE MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW
25 CONTACT BETWEEN:

26 (I) A RELATIVE OR FORMER PARENT OF THE ADOPTEE; AND

27 (II) THE ADOPTEE OR ADOPTIVE PARENT.

28 (B) CONSTRUCTION OF AGREEMENT.

29 AN AGREEMENT MADE UNDER THIS SECTION APPLIES TO CONTACT WITH AN
30 ADOPTEE ONLY WHILE THE ADOPTEE IS A MINOR.

31 (C) DISSEMINATION; REDACTION.

32 AN INDIVIDUAL WHO PREPARES AN AGREEMENT DESCRIBED IN SUBSECTION
33 (A)(1) OF THIS SECTION:

1 (1) SHALL PROVIDE A COPY TO EACH PARTY IN A CASE PENDING AS TO
2 THE PROSPECTIVE ADOPTEE UNDER THIS SUBTITLE; AND

3 (2) IF THE AGREEMENT SO PROVIDES, SHALL REDACT IDENTIFYING
4 INFORMATION FROM ALL COPIES.

5 (D) EFFECT OF NONCOMPLIANCE.

6 FAILURE TO COMPLY WITH A CONDITION OF AN AGREEMENT MADE UNDER
7 THIS SECTION IS NOT A GROUND FOR REVOKING CONSENT TO, OR SETTING ASIDE AN
8 ORDER FOR, ADOPTION OR GUARDIANSHIP.

9 (E) MEDIATION.

10 IF A DISPUTE AS TO AN AGREEMENT MADE UNDER THIS SECTION ARISES, A
11 COURT MAY ORDER THE PARTIES TO ENGAGE IN MEDIATION TO TRY TO RESOLVE
12 THE DISPUTE.

13 (F) ENFORCEMENT.

14 (1) A COURT SHALL ENFORCE A WRITTEN AGREEMENT MADE IN
15 ACCORDANCE WITH THIS SECTION UNLESS ENFORCEMENT IS NOT IN THE
16 ADOPTEE'S BEST INTERESTS.

17 (2) IF A PARTY MOVES TO MODIFY A WRITTEN AGREEMENT MADE IN
18 ACCORDANCE WITH THIS SECTION AND SATISFIES THE COURT THAT MODIFICATION
19 IS JUSTIFIED BECAUSE AN EXCEPTIONAL CIRCUMSTANCE HAS ARISEN AND THE
20 COURT FINDS MODIFICATION TO BE IN AN ADOPTEE'S BEST INTERESTS, THE COURT
21 MAY MODIFY THE AGREEMENT.

22 COMMITTEE NOTE: This section is new and added to create a formal
23 procedure for agreements as to postadoption visits. This section is not
24 intended to invalidate agreements entered into on or before ~~September 30~~
25 December 31, 2005.

26 As to "minor", *see* Art. 1, § 24 of the Code.

27 Defined terms: "Adoptive parent" § 5-101

28 "Guardianship" § 5-3A-01

29 "Identifying information " § 5-3A-01

30 "Parent" § 5-3A-01

31 5-3A-09. COSTS.

32 A COURT MAY ASSIGN AMONG THE PARTIES TO A CASE UNDER THIS SUBTITLE,
33 AS THE COURT CONSIDERS APPROPRIATE, COUNSEL FEES AND THE COST OF
34 TESTING UNDER § 5-3A-06 OF THIS SUBTITLE.

1 COMMITTEE NOTE: This section is derived from the second sentence of
2 former FL § 5-323(d) and revised as a separate provision stating expressly
3 that "cost" is not limited to counsel fees but covers the newly referenced
4 "testing" fees.

5 5-3A-10. APPEAL.

6 A PARTY TO A CASE UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF
7 SPECIAL APPEALS FROM AN INTERLOCUTORY OR FINAL ORDER.

8 COMMITTEE NOTE: This section is derived from former FL § 5-330.

9 5-3A-11. RESERVED.

10 5-3A-12. RESERVED.

11 PART II. GUARDIANSHIP PROCEEDING.

12 5-3A-13. PETITION.

13 (A) PETITIONER.

14 ONLY A CHILD PLACEMENT AGENCY MAY PETITION FOR GUARDIANSHIP UNDER
15 THIS SUBTITLE.

16 (B) CHILD.

17 A COURT MAY GRANT GUARDIANSHIP UNDER THIS SUBTITLE ONLY FOR A
18 CHILD.

19 (C) CONTENTS.

20 A PETITIONER SHALL ATTACH TO A PETITION:

21 (1) ALL WRITTEN CONSENTS FOR THE GUARDIANSHIP THAT THE
22 PETITIONER HAS; AND

23 (2) IF APPLICABLE:

24 (I) PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF PARENTAL
25 RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY OF A
26 STATE OR OTHER JURISDICTION; AND

27 (II) CERTIFICATION THAT THE GUARDIANSHIP OR
28 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS.

29 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
30 5-317(b).

31 Subsection (b) of this section is derived from former FL § 5-307(b).

1 Subsection (c) of this section is new and added to mandate inclusion of the
2 requisite consents and other documentation.

3 In subsection (a) of this section, the former authority for a child to petition
4 is deleted.

5 Defined terms: "Child" § 5-3A-01

6 "Child placement agency" § 5-101

7 "Guardianship" § 5-3A-01

8 "State" § 1-101

9 5-3A-14. NOTICE OF FILING.

10 (A) REQUIREMENT.

11 WITHIN 5 DAYS AFTER A PETITION FOR GUARDIANSHIP OF A CHILD IS FILED
12 WITH A COURT, THE CLERK SHALL SEND A COPY OF THE PETITION AND NOTICE OF
13 FILING TO:

14 (1) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT WAIVED THE
15 RIGHT TO NOTICE; AND

16 (2) EACH LIVING PARENT'S ATTORNEY OF RECORD.

17 (B) METHOD.

18 NOTICE UNDER THIS SECTION SHALL BE BY FIRST CLASS MAIL.

19 (C) PARENTAL ADDRESS.

20 NOTICE TO A PARENT UNDER THIS SECTION SHALL BE SENT TO A PARENT'S
21 LAST ADDRESS KNOWN TO THE COURT.

22 COMMITTEE NOTE: This section is new and added to state an express duty
23 for notice by a clerk of court.

24 Defined terms: "Child" § 5-3A-01

25 "Guardianship" § 5-3A-01

26 "Parent" § 5-3A-01

27 5-3A-15. ORDER TO SHOW CAUSE.

28 (A) REQUIREMENT.

29 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO GUARDIANSHIP OF A CHILD, A
30 PETITIONER SHALL SERVE THE ORDER ON EACH OF THE CHILD'S LIVING PARENTS
31 WHO HAS NOT CONSENTED TO THE GUARDIANSHIP.

1 (B) METHOD.

2 SERVICE UNDER THIS SECTION SHALL BE BY:

3 (1) PERSONAL SERVICE; OR

4 (2) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
5 REQUESTED.

6 (C) PARENTAL ADDRESS.

7 SERVICE ON A PARENT UNDER THIS SECTION SHALL BE ATTEMPTED AT THE
8 PARENT'S LAST ADDRESS KNOWN TO THE PETITIONER.

9 (D) PUBLICATION.

10 (1) IF A COURT IS SATISFIED, BY AFFIDAVIT OR TESTIMONY, THAT,
11 AFTER REASONABLE EFFORTS IN GOOD FAITH, A PETITIONER COULD NOT IDENTIFY
12 A PARENT OR COULD NOT EFFECT SERVICE ON A PARENT, THE COURT SHALL ORDER
13 SERVICE THROUGH NOTICE BY PUBLICATION AS TO THAT PARENT.

14 (2) NOTICE UNDER THIS SUBSECTION SHALL CONSIST OF
15 SUBSTANTIALLY THE FOLLOWING STATEMENT:

16 TO: (FATHER'S NAME) TO: (MOTHER'S NAME) TO: UNKNOWN PARENT

17 "YOU ARE HEREBY NOTIFIED THAT A GUARDIANSHIP CASE HAS BEEN FILED IN
18 THE CIRCUIT COURT FOR (COUNTY NAME), CASE NO. (NUMBER). ALL PERSONS WHO
19 BELIEVE THEMSELVES TO BE PARENTS OF A (MALE OR FEMALE) CHILD BORN ON
20 (DATE OF BIRTH) IN (CITY, STATE) TO (MOTHER'S AND FATHER'S NAMES AND DATES
21 OF BIRTH) SHALL FILE A WRITTEN RESPONSE. A COPY OF THE ~~PETITION~~ SHOW
22 CAUSE ORDER MAY BE OBTAINED FROM THE CLERK'S OFFICE AT (ADDRESS) AND
23 (TELEPHONE NUMBER). IF YOU DO NOT FILE A WRITTEN OBJECTION BY (DEADLINE),
24 YOU WILL HAVE AGREED TO THE PERMANENT LOSS OF YOUR PARENTAL RIGHTS TO
25 THIS CHILD."

26 (3) SERVICE UNDER THIS SUBSECTION SHALL BE BY:

27 (I) PUBLICATION AT LEAST ONCE IN ONE OR MORE NEWSPAPERS
28 IN GENERAL CIRCULATION IN THE COUNTY WHERE THE PARENT LAST RESIDED OR,
29 IF UNKNOWN, WHERE THE PETITION IS FILED; AND

30 (II) POSTING FOR AT LEAST 30 DAYS ON A WEBSITE OF THE
31 DEPARTMENT.

32 (4) THE DEPARTMENT MAY CHARGE A PETITIONER A REASONABLE FEE
33 TO COVER THE COST OF POSTING.

34 COMMITTEE NOTE: Subsection (a) of this section is derived from part of
35 former FL § 5-322(a) (3) and , as it related to guardianship, (1)(i).

1 Subsection (b) of this section is substituted for the former reference to
2 "both certified mail and private process" in former FL § 5-322(c)(2).

3 Subsection (c) of this section is derived from part of former FL §
4 5-322(a)(3).

5 Subsection (d)(1), (2), and (3)(i) of this section is derived from former FL §
6 5-322(c)(1) and (2).

7 Subsection (d)(3)(ii) and (4) of this section is new and added to afford an
8 additional means of notice by publication on a website at a reasonable cost.

9 In subsection (d)(1) of this section, reference to "reasonable efforts in good
10 faith" is added.

11 Also in subsection (d)(1) of this section, the former limitation "[i]f the child
12 has not been adjudicated to be a child in need of assistance in a prior
13 juvenile proceeding" is omitted as unnecessary in light of the scope of this
14 subtitle under new § 5-3A-02(a).

15 As to a newspaper in general circulation, *see* Art. 1, § 28 of the Code.

16 Defined terms: "Child" § 5-3A-01

17 "Department" § 5-101

18 "County" § 1-101

19 "Guardianship" § 5-3A-01

20 "Parent" § 5-3A-01

21 5-3A-16. INVESTIGATION.

22 IN ADDITION TO ANY INVESTIGATION REQUIRED UNDER § 5-3A-21 OF THIS
23 SUBTITLE, BEFORE RULING ON A GUARDIANSHIP PETITION, A COURT MAY ORDER
24 ANY INVESTIGATION THAT THE COURT CONSIDERS NECESSARY.

25 COMMITTEE NOTE: This section is derived from the references to
26 investigations in former FL § 5-317(c)(1) and (g)(1).

27 Defined term: "Guardianship" § 5-3A-01

28 5-3A-17. TIME LIMITS.

29 (A) MAXIMUM LIMIT.

30 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COURT SHALL RULE ON A
31 GUARDIANSHIP PETITION UNDER THIS SUBTITLE WITHIN 180 DAYS AFTER THE
32 PETITION IS FILED.

33 (B) MINIMUM LIMIT.

1 A COURT MAY NOT ENTER A FINAL ORDER FOR GUARDIANSHIP UNDER THIS
2 SUBTITLE UNTIL THE LATER OF EXPIRATION OF THE TIME FOR:

3 (1) REVOCATION OF CONSENT; OR

4 (2) THE FILING OF A NOTICE OF OBJECTION.

5 COMMITTEE NOTE: This section is derived from former FL §§ 5-317(d) and
6 5-324(2), as they related to guardianship.

7 Defined term: "Guardianship" § 5-3A-01

8 5-3A-18. AUTHORITY TO GRANT GUARDIANSHIP.

9 (A) CONSENT OR BEST INTERESTS.

10 A COURT MAY GRANT A GUARDIANSHIP OF A CHILD ONLY IF:

11 (1) EACH OF THE CHILD'S LIVING PARENTS CONSENTS:

12 (I) IN WRITING; OR

13 (II) BY FAILURE TO TIMELY FILE NOTICE OF OBJECTION AFTER
14 BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS SUBTITLE;

15 (2) AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY OF A STATE OR
16 OTHER JURISDICTION HAS GRANTED A PERSON OTHER THAN A PARENT THE POWER
17 TO CONSENT TO ADOPTION AND THE PERSON CONSENTS; OR

18 (3) IN ACCORDANCE WITH § 5-3A-21 OF THIS SUBTITLE, THE COURT
19 ORDERS GUARDIANSHIP WITHOUT CONSENT OTHERWISE REQUIRED UNDER THIS
20 SECTION.

21 (B) CONDITIONAL CONSENT.

22 A PERSON:

23 (1) MAY CONDITION CONSENT OR ACQUIESCENCE ON ADOPTION INTO A
24 SPECIFIC FAMILY THAT A CHILD PLACEMENT AGENCY HAS APPROVED FOR THE
25 PLACEMENT; BUT

26 (2) MAY NOT CONDITION CONSENT OR ACQUIESCENCE ON ANY FACTOR
27 OTHER THAN PLACEMENT INTO A SPECIFIC FAMILY.

28 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL
29 §§ 5-317(c)(2) and 5-322(d)(1), as they related to guardianship under this
30 subtitle.

31 Subsection (b) of this section is new and added to provide expressly for
32 conditional consent or acquiescence. The requirement for approval by a
33 child placement agency should not be construed to require approval before
34 entry of a guardianship order.

1 In subsection (a) of this section, the former word "natural" is omitted, to
 2 reflect that the parental rights of a nonbiological - i.e., adoptive - parent
 3 can be terminated in the same manner as a biological parent's can.

4 Defined terms: "Child" § 5-3A-01

5 "Child placement agency" § 5-101

6 "Guardianship" § 5-3A-01

7 "Parent" § 5-3A-01

8 "Person" § 1-101

9 "State" § 1-101

10 5-3A-19. CONSENT.

11 (A) CONTENTS.

12 (1) CONSENT OF A PARENT MAY INCLUDE A WAIVER OF THE RIGHT TO
 13 NOTICE OF:

14 (I) THE FILING OF A PETITION UNDER THIS SUBTITLE; AND

15 (II) FURTHER PROCEEDINGS UNDER THIS SUBTITLE.

16 (2) CONSENT TO GUARDIANSHIP IS NOT VALID UNLESS THE CONSENT:

17 (I) IS GIVEN AFTER THE CHILD FOR WHOM GUARDIANSHIP IS
 18 SOUGHT IS BORN;

19 (II) IS GIVEN IN A LANGUAGE THAT THE PARTY UNDERSTANDS;

20 (III) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH:

21 1. IS GIVEN BEFORE A JUDGE ON THE RECORD; OR

22 2. IS ACCOMPANIED BY THE AFFIDAVIT OF A TRANSLATOR
 23 STATING THAT THE TRANSLATION OF THE DOCUMENT OF CONSENT IS ACCURATE;

24 (IV) CONTAINS AN EXPRESS NOTICE OF:

25 1. THE RIGHT TO REVOKE CONSENT, AT ANY TIME WITHIN 30
 26 DAYS AFTER THE PERSON SIGNS THE CONSENT, UNLESS THE REVOCATION IS
 27 BARRED UNDER SUBSECTION (B)(2) OF THIS SECTION;

28 2. ~~THE OBLIGATION OF THE PERSON GIVING CONSENT TO~~
 29 ~~ADVISE THE COURT AND PETITIONER OF EACH CHANGE OF THE UNIT'S OR PERSON'S~~
 30 ~~ADDRESS;~~

1 ~~3.~~ THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER
2 § 5-3A-42 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, PARENTS, AND
3 SIBLINGS UNDER SUBTITLE 4B OF THIS TITLE; AND

4 ~~4.~~ 3. THE RIGHT TO FILE A DISCLOSURE VETO UNDER §
5 5-3A-42 OF THIS SUBTITLE; AND

6 (V) IS ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL APPOINTED
7 UNDER § 5-3A-07(A) OF THIS SUBTITLE STATING THAT A PARENT WHO IS A MINOR OR
8 HAS A DISABILITY CONSENTS KNOWINGLY AND VOLUNTARILY.

9 (B) REVOCATION PERIOD.

10 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY
11 REVOKE CONSENT TO GUARDIANSHIP AT ANY TIME WITHIN 30 DAYS AFTER THE
12 PERSON SIGNS THE CONSENT.

13 (2) A PARENT MAY NOT REVOKE CONSENT FOR GUARDIANSHIP OF A
14 CHILD IF:

15 (I) IN THE PRECEDING YEAR, THE PARENT HAS REVOKED
16 CONSENT FOR OR FILED A NOTICE OF OBJECTION TO GUARDIANSHIP OF THE CHILD;
17 ~~OR~~ AND

18 (II) THE CHILD IS AT LEAST 30 DAYS OLD AND CONSENT IS GIVEN
19 BEFORE A JUDGE ON THE RECORD.

20 (C) FAILED CONDITIONAL PLACEMENT.

21 IF A PETITIONER BECOMES AWARE, BEFORE A COURT RULES ON A PETITION,
22 THAT A ~~PERSON'S~~ CONDITION OF CONSENT UNDER § 5-3A-18(B) OF THIS SUBTITLE
23 CANNOT BE FULFILLED, THE PETITIONER PROMPTLY SHALL:

24 (1) FILE NOTICE WITH THE COURT;

25 (2) GIVE NOTICE TO ALL OF THE OTHER PARTIES; AND

26 (3) (I) IF THE PERSON ENTERS INTO A NEW CONSENT, FILE THE
27 CONSENT WITH THE COURT; OR

28 (II) IF THE PERSON FAILS TO ENTER INTO A NEW CONSENT,
29 DISMISS THE PETITION.

30 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former
31 FL § 5-319(d)(1) and, as it related to guardianship, § 5-322(a)(2).

32 Subsection (a)(2)(i) of this section is derived from former FL § 5-324(1) and
33 revised to preclude valid consent, rather than bar entry of an order.

34 Subsection (a)(2)(ii) and (iii) of this section is new and added to ensure that
35 consent is given knowingly, by ensuring that the individual consenting

1 understands the consent being given. As to interpreters in connection with
2 on the record consent, see Md. Rule 16-819.

3 Subsection (a)(2)(iv)1, 3, and 4 of this section is derived from former FL §
4 5-314(a), as it related to guardianship under this subtitle, and revised to
5 incorporate the substance of the referenced former FL § 5-317.

6 Subsection (a)(2)(iv)2 of this section is new and added to ensure that
7 persons giving conditional consent can be located if a condition of the
8 consent cannot be fulfilled.

9 Subsection (a)(2)(v) of this section is derived from former FL § 5-314(b), as
10 it related to guardianship under this subtitle, and the substance of former
11 FL § 5-101(h) and revised to apply to disabled, as well as minor, parents.

12 Subsection (b)(1) of this section is derived from former FL § 5-317(e).

13 Subsection (b)(2)(i) of this section is new and added to bar repeated
14 thwarting of guardianship.

15 ~~Subsection (b)(2)(ii) of this section is new and added to preclude revocation~~
16 ~~of timely consent given on the record.~~

17 Subsection (c) of this section is new and added to reflect the addition of
18 provisions for conditional consent in the referenced new § 5-3A-18(b).

19 In subsection (a) of this section, the former reference to a "natural" parent
20 is omitted, to reflect that the parental rights of a nonbiological - i.e.,
21 adoptive - parent can be terminated in the same manner as a biological
22 parent's can.

23 As to "minor", *see* Art. 1, § 24 of the Code.

24 Defined terms: "Child" § 5-3A-01

25 "Disability" § 5-101

26 "Guardianship" § 5-3A-01

27 "Includes" § 1-101

28 "Including" § 1-101

29 "Parent" § 5-3A-01

30 "Person" § 1-101

31 5-3A-20. GRANT OF GUARDIANSHIP - CONSENSUAL.

32 (A) AUTHORITY.

1 IF ALL CONSENTS FOR GUARDIANSHIP OF A CHILD HAVE BEEN GIVEN IN
2 ACCORDANCE WITH THIS SUBTITLE, A COURT MAY ENTER AN ORDER FOR
3 GUARDIANSHIP.

4 (B) NOTICE.

5 (1) WITHIN 5 DAYS AFTER ENTRY OF AN ORDER UNDER THIS SECTION, A
6 COURT SHALL NOTIFY EACH PARTY TO THE CASE WHO HAS NOT WAIVED THE RIGHT
7 TO NOTICE.

8 (2) NOTICE UNDER THIS SUBSECTION SHALL BE BY FIRST CLASS MAIL.

9 (3) NOTICE UNDER THIS SUBSECTION SHALL BE SENT TO A PARTY'S
10 LAST ADDRESS KNOWN TO THE COURT.

11 COMMITTEE NOTE: This section is new and added to set forth the manner of
12 disposing of consensual guardianships.

13 Defined terms: "Child" § 5-3A-01

14 "Guardianship" § 5-3A-01

15 ~~5-3A-21. GRANT OF GUARDIANSHIP - NONCONSENSUAL.~~

16 ~~(A) PRIOR TERMINATION OR ABANDONMENT.~~

17 ~~A COURT MAY GRANT GUARDIANSHIP OF A CHILD WITHOUT CONSENT~~
18 ~~OTHERWISE REQUIRED UNDER THIS SUBTITLE IF THE COURT FINDS, BY CLEAR AND~~
19 ~~CONVINCING EVIDENCE, THAT:~~

20 ~~(1) THE PARENT'S RIGHTS AS TO THE CHILD HAVE BEEN TERMINATED~~
21 ~~IN ACCORDANCE WITH LAW; OR~~

22 ~~(2) AFTER A THOROUGH INVESTIGATION BY A CHILD PLACEMENT~~
23 ~~AGENCY:~~

24 ~~(I) THE IDENTITIES OF THE CHILD'S PARENTS ARE UNKNOWN;~~

25 ~~(II) THE CHILD HAS BEEN IN THE CUSTODY OF THE CHILD~~
26 ~~PLACEMENT AGENCY FOR AT LEAST 60 DAYS DURING WHICH NO ONE HAS CLAIMED~~
27 ~~TO BE THE CHILD'S PARENT; AND~~

28 ~~(III) GUARDIANSHIP IS IN THE CHILD'S BEST INTERESTS.~~

29 ~~(B) CUSTODIAN.~~

30 ~~(1) A COURT MAY GRANT GUARDIANSHIP OF A CHILD WITHOUT~~
31 ~~PARENTAL CONSENT OTHERWISE REQUIRED UNDER THIS SUBTITLE, IF THE COURT~~
32 ~~FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:~~

33 ~~(I) THE CHILD HAS LIVED WITH A PROSPECTIVE ADOPTIVE~~
34 ~~PARENT FOR AT LEAST 180 DAYS;~~

1 (II) ~~THE PARENT HAS NOT HAD CUSTODY OF THE CHILD FOR AT~~
2 ~~LEAST 1 YEAR;~~

3 (III) ~~THE CHILD HAS SIGNIFICANT EMOTIONAL TIES TO AND~~
4 ~~FEELINGS FOR THE PROSPECTIVE ADOPTIVE PARENT; AND~~

5 (IV) ~~THE PARENT:~~

6 1. ~~HAS NOT MAINTAINED MEANINGFUL CONTACT WITH THE~~
7 ~~CHILD WHILE THE PETITIONER HAD CUSTODY, NOTWITHSTANDING AN~~
8 ~~OPPORTUNITY TO DO SO;~~

9 2. ~~HAS FAILED TO CONTRIBUTE TO THE CHILD'S PHYSICAL~~
10 ~~CARE AND SUPPORT, NOTWITHSTANDING THE ABILITY TO DO SO;~~

11 3. ~~HAS SUBJECTED THE CHILD TO:~~

12 A. ~~CHRONIC ABUSE;~~

13 B. ~~CHRONIC AND LIFE-THREATENING NEGLECT;~~

14 C. ~~SEXUAL ABUSE; OR~~

15 D. ~~TORTURE;~~

16 4. ~~HAS BEEN CONVICTED OF ABUSE OF ANY CHILD OF THE~~
17 ~~PARENT;~~

18 5. ~~HAS BEEN CONVICTED, IN ANY STATE OR ANY COURT OF~~
19 ~~THE UNITED STATES, OF:~~

20 A. ~~A CRIME OF VIOLENCE AGAINST:~~

21 I. ~~A MINOR OFFSPRING OF THE PARENT;~~

22 II. ~~THE CHILD; OR~~

23 III. ~~ANOTHER PARENT OF THE CHILD; OR~~

24 B. ~~AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO~~
25 ~~COMMIT A CRIME DESCRIBED IN SUBITEM A OF THIS ITEM; OR~~

26 6. ~~HAS, OTHER THAN BY CONSENT, LOST PARENTAL RIGHTS~~
27 ~~TO A SIBLING OF THE CHILD.~~

28 (2) ~~IF A COURT FINDS THAT AN ACT OR CIRCUMSTANCE LISTED IN~~
29 ~~PARAGRAPH (1)(IV)3 OR 5 OF THIS SUBSECTION EXISTS, THE COURT SHALL MAKE A~~
30 ~~SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, WHETHER RETURN OF THE~~
31 ~~CHILD TO THE CUSTODY OF THE PARENT POSES AN UNACCEPTABLE RISK TO THE~~
32 ~~CHILD'S SAFETY.~~

1 (3) ~~IN RULING UNDER THIS SUBSECTION, A COURT SHALL GIVE~~
 2 ~~PRIMARY CONSIDERATION TO THE HEALTH AND SAFETY OF THE CHILD IN~~
 3 ~~DETERMINING THE CHILD'S BEST INTERESTS.~~

4 ~~COMMITTEE NOTE: Subsection (a) of this section is derived from former FL~~
 5 ~~§§ 5-313(a)(1) and (b) and 5-322(d) and the introductory clause of §~~
 6 ~~5-311(a).~~

7 ~~Subsection (b) of this section is new and added to allow a court to grant~~
 8 ~~guardianship notwithstanding a parent's refusal to consent.~~

9 ~~In subsection (a) of this section, the former word "natural" is omitted, to~~
 10 ~~reflect that the parental rights of a nonbiological — i. e., adoptive — parent~~
 11 ~~can be terminated in the same manner as a biological parent's can.~~

12 ~~Defined terms: "Adoptive parent" § 5-101~~

13 ~~"Child" § 5-3A-01~~

14 ~~"Child placement agency" § 5-101~~

15 ~~"Crime of violence" § 5-101~~

16 ~~"Guardianship" § 5-3A-01~~

17 ~~"Parent" § 5-3A-01~~

18 ~~"State" § 1-101~~

19 ~~"Support" § 1-101~~

20 ~~5-3A-22. 5-3A-21. CONTENTS OF ORDER.~~

21 IN AN ORDER ENTERED UNDER THIS SUBTITLE, A COURT SHALL DOCUMENT:

22 (1) THE RESPONSE BY EACH PARTY TO THE GUARDIANSHIP PETITION;
 23 AND

24 (2) THE WAIVER, IF ANY, OF A PARENT TO NOTICE OF FURTHER
 25 PROCEEDINGS.

26 ~~COMMITTEE NOTE: Item (1) of this section is new and added to provide a~~
 27 ~~record of the responses.~~

28 Item (2) of this section is derived from former FL § 5-319(d)(2).

29 ~~Defined terms: "Guardianship" § 5-3A-01~~

30 ~~"Parent" § 5-3A-01~~

31 ~~5-3A-23. 5-3A-22. EFFECTS OF ORDER FOR GUARDIANSHIP.~~

32 (A) PARENT-CHILD RELATIONSHIP.

1 AN ORDER FOR GUARDIANSHIP OF AN INDIVIDUAL:

2 (1) EXCEPT AS PROVIDED IN ~~§ 5-3A-24~~ § 5-3A-23 OF THIS SUBTITLE, §
3 4-414 OF THE ESTATES AND TRUSTS ARTICLE, AND § 2-123 OF THE REAL PROPERTY
4 ARTICLE, TERMINATES A PARENT'S DUTIES, OBLIGATIONS, AND RIGHTS TOWARD
5 THE INDIVIDUAL;

6 (2) ELIMINATES THE NEED FOR NOTICE TO A PARENT AS TO THE FILING
7 OF AN ADOPTION PETITION;

8 (3) ELIMINATES THE NEED FOR FURTHER CONSENT OF A PARENT TO
9 ADOPTION OF THE INDIVIDUAL; AND

10 (4) GRANTS GUARDIANSHIP OF THE INDIVIDUAL TO A CHILD
11 PLACEMENT AGENCY.

12 (B) GUARDIAN.

13 (1) UNLESS A COURT GIVES LEGAL CUSTODY TO ANOTHER PERSON, A
14 CHILD'S GUARDIAN UNDER THIS SUBTITLE HAS LEGAL CUSTODY.

15 (2) UNLESS A COURT ORDERS OTHERWISE AND SUBJECT TO REVIEW BY
16 THE COURT, A CHILD'S GUARDIAN MAY MAKE ALL DECISIONS AFFECTING THE
17 CHILD'S EDUCATION, HEALTH, AND WELFARE, INCLUDING CONSENTING TO:

18 (I) ADOPTION OF THE CHILD;

19 (II) APPLICATION BY THE CHILD FOR A DRIVER'S LICENSE;

20 (III) ENLISTMENT BY THE CHILD IN THE ARMED FORCES;

21 (IV) MARRIAGE OF THE CHILD; AND

22 (V) MEDICAL, PSYCHIATRIC, OR SURGICAL TREATMENT.

23 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
24 5-317(f).

25 Subsection (b) of this section is new and added to state expressly the
26 powers and duties of a guardian under this subtitle.

27 In the introductory language of subsection (a) of this section, the word
28 "order" is substituted for the former, more archaic "decree".

29 In subsection (a)(1) and (2) of this section, the former word "natural" is
30 omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive
31 - parent can be terminated in the same manner as a biological parent's
32 can.

33 The introductory exception in subsection (a)(1) of this section, "[e]xcept as
34 provided ...", is substituted for the former exception "this section" - i.e.,

1 former FL § 5-308 - to reflect the recodification of former § 5-308(d) and
2 the role of a parent in review hearings.

3 Defined terms: "Child" § 5-3A-01

4 "Child placement agency" § 5-101

5 "Guardianship" § 5-3A-01

6 "Includes" § 1-101

7 "Including" § 1-101

8 "Parent" § 5-3A-01

9 ~~5-3A-24.~~ 5-3A-23. GUARDIANSHIP REVIEW.

10 (A) REPORT.

11 (1) A CHILD PLACEMENT AGENCY SHALL FILE A WRITTEN REPORT WITH
12 A COURT WITH JURISDICTION OVER A CHILD WHENEVER:

13 (I) THE CHILD PLACEMENT AGENCY FAILS TO PLACE THE CHILD
14 FOR ADOPTION WITH A PREADOPTIVE PARENT, AS DEFINED IN § 3-823(I)(1) OF THE
15 COURTS ARTICLE:

16 1. WITHIN 270 DAYS AFTER BEING AWARDED
17 GUARDIANSHIP; OR

18 2. WITHIN 180 DAYS AFTER PERMANENTLY REMOVING THE
19 CHILD FROM ANOTHER PLACEMENT; OR

20 (II) A COURT DOES NOT ENTER A FINAL ORDER OF ADOPTION
21 WITHIN 2 YEARS AFTER THE PLACEMENT.

22 (2) A REPORT UNDER THIS SUBSECTION SHALL STATE EACH REASON
23 FOR THE DELAY IN PLACEMENT OR ADOPTION.

24 (B) NOTICE.

25 (1) WHENEVER A CHILD PLACEMENT AGENCY FILES A REPORT UNDER
26 THIS SECTION, THE CHILD PLACEMENT AGENCY SHALL MAIL NOTICE OF THE
27 CHILD'S STATUS:

28 (I) TO EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
29 WAIVED THE RIGHT TO NOTICE; AND

30 (II) IF A COURT APPOINTED COUNSEL FOR THE CHILD UNDER THIS
31 SUBTITLE, TO THE CHILD'S LAST ATTORNEY OF RECORD.

32 (2) A WAIVER OF RIGHTS UNDER THIS SUBSECTION IS NOT VALID
33 UNLESS THE WAIVER APPEARS EXPRESSLY IN:

1 (I) THE PARENT'S CONSENT TO GUARDIANSHIP; AND

2 (II) THE GUARDIANSHIP ORDER.

3 (C) HEARING.

4 (1) WHENEVER A COURT RECEIVES A REPORT UNDER THIS SECTION,
5 THE COURT SHALL HOLD A HEARING TO:

6 (I) REVIEW THE PROGRESS THAT THE CHILD PLACEMENT AGENCY
7 HAS MADE TOWARD ADOPTION OF THE CHILD; AND

8 (II) TAKE ALL ACTIONS THAT THE COURT CONSIDERS TO BE IN THE
9 CHILD'S BEST INTERESTS.

10 (2) EACH YEAR AFTER A HEARING UNDER PARAGRAPH (1) OF THIS
11 SUBSECTION UNTIL THE COURT'S JURISDICTION TERMINATES, THE COURT SHALL
12 HOLD ANOTHER REVIEW HEARING.

13 COMMITTEE NOTE: This section is new language derived from former FL §
14 5-319.

15 In subsection (a)(1)(i)1 of this section, reference to "270 days" is substituted
16 for the former 6-month period, to extend the period and to allow easier
17 calculation of the period. Similarly, in subsection (a)(1)(i)2 of this section, a
18 reference to "days" is substituted for the former reference to a 2-month
19 period, although the number of days is increased to 180.

20 Defined terms: "Child" § 5-3A-01

21 "Child placement agency" § 5-101

22 "Guardianship" § 5-3A-01

23 "Parent" § 5-3A-01

24 ~~5-3A-25~~; 5-3A-24. FAILED CONDITIONAL CONSENT DURING GUARDIANSHIP.

25 IF A PETITIONER BECOMES AWARE, AFTER A COURT RULES ON A PETITION,
26 THAT A ~~GOVERNMENTAL UNIT'S OR PERSON'S~~ CONDITION OF CONSENT UNDER §
27 5-3A-18(B) OF THIS SUBTITLE CANNOT BE FULFILLED, THE PETITIONER PROMPTLY
28 SHALL:

29 (1) FILE NOTICE WITH THE COURT;

30 (2) GIVE NOTICE TO ALL OF THE OTHER PARTIES; AND

31 (3) (I) IF THE UNIT OR PERSON ENTERS INTO A NEW CONSENT, FILE
32 THE CONSENT WITH THE COURT;

33 (II) IF THE UNIT OR PERSON FAILS TO ENTER INTO A NEW
34 CONSENT, ASK THE COURT TO SET ASIDE THE GUARDIANSHIP ORDER; OR

1 (III) IF THE UNIT OR PERSON CANNOT BE LOCATED AFTER
2 EXHAUSTION OF THE SERVICE REQUIREMENTS UNDER § 5-3A-15 OF THIS SUBTITLE,
3 ASK THE COURT TO DETERMINE WHETHER IT IS IN THE CHILD'S BEST INTERESTS TO
4 CONTINUE THE GUARDIANSHIP DESPITE THE INABILITY TO FULFILL THE
5 CONDITION.

6 COMMITTEE NOTE: This section is new and added to reflect the addition of
7 provisions for conditional consent in the referenced new § 5-3A-18(b).

8 Defined terms: "Child" § 5-3A-01

9 "Guardianship" § 5-3A-01

10 "Person" § 1-101

11 ~~5-3A-26.~~ 5-3A-25. TERMINATION OF GUARDIANSHIP.

12 (A) AGE LIMIT.

13 UNLESS TERMINATED SOONER, A COURT RETAINS JURISDICTION OVER A CHILD
14 UNTIL THE CHILD ATTAINS 18 YEARS OF AGE.

15 (B) ADOPTION ORDER.

16 AN ORDER FOR ADOPTION OF A CHILD TERMINATES THE CHILD'S
17 GUARDIANSHIP CASE.

18 COMMITTEE NOTE: This section is derived from former FL § 5-319(i).

19 Defined terms: "Child" § 5-3A-01

20 "Guardianship" § 5-3A-01

21 5-3A-26. RESERVED.

22 5-3A-27. RESERVED.

23 5-3A-28. RESERVED.

24 PART III. ADOPTION.

25 5-3A-29. PETITIONER.

26 (A) AGE.

27 ANY ADULT MAY PETITION A COURT FOR AN ADOPTION UNDER THIS SUBTITLE.

28 (B) MINIMUM PERIOD OF PLACEMENT.

29 A PETITIONER MAY PETITION FOR ADOPTION OF A CHILD 180 DAYS OR MORE
30 AFTER A CHILD PLACEMENT AGENCY PLACES THE CHILD WITH THE PETITIONER.

31 (C) MARITAL STATUS.

1 (1) IF A PETITIONER UNDER THIS SECTION IS MARRIED, THE
2 PETITIONER'S SPOUSE SHALL JOIN IN THE PETITION UNLESS THE SPOUSE:

3 (I) IS SEPARATED FROM THE PETITIONER UNDER A
4 CIRCUMSTANCE THAT GIVES THE PETITIONER A GROUND FOR ANNULMENT OR
5 DIVORCE; OR

6 (II) IS NOT COMPETENT TO JOIN IN THE PETITION.

7 (2) IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY
8 OF A FINAL ORDER, THE PETITIONER SHALL AMEND THE PETITION ACCORDINGLY.

9 COMMITTEE NOTE: Subsection (a) of this section is derived from FL §
10 5-309(a).

11 Subsection (b) of this section is new.

12 Subsection (c) of this section is derived from former FL § 5-315(a)(2) and
13 (b).

14 In subsection (a) of this section, the former word "decree" is deleted.
15 Similarly, in subsection (c)(2) of this section, the word "order" is
16 substituted for the former, more archaic "decree".

17 As to "adult", *see* Art. 1, § 24 of the Code.

18 Defined terms: "Child" § 5-3A-01

19 "Child placement agency" § 5-101

20 5-3A-30. NOTICE OF FILING.

21 A PETITIONER FOR ADOPTION UNDER THIS SUBTITLE SHALL GIVE NOTICE OF
22 THE FILING OF AN ADOPTION PETITION TO EACH GOVERNMENTAL UNIT OR PERSON
23 WHOSE CONSENT IS REQUIRED.

24 COMMITTEE NOTE: This section is derived from former FL § 5-322(a)(1)(i).

25 Defined term: "Person" § 1-101

26 5-3A-31. REPORT.

27 BEFORE A COURT ENTERS AN ORDER FOR ADOPTION OF A CHILD UNDER THIS
28 SUBTITLE, A CHILD PLACEMENT AGENCY SHALL FILE A WRITTEN REPORT ON:

29 (1) THE SUITABILITY OF THE PETITIONER TO ADOPT THE CHILD; AND

30 (2) THE RELATIONSHIP BETWEEN THE PETITIONER AND CHILD.

31 COMMITTEE NOTE: This section is new and added to reflect requirements
32 under Department regulations, in COMAR 07.05.03.15.

33 Defined terms: "Child" § 5-3A-01

1 "Child placement agency" § 5-101

2 5-3A-32. HEARING ON ADOPTION PETITION.

3 A COURT SHALL HOLD A HEARING BEFORE ENTERING AN ORDER FOR
4 ADOPTION UNDER THIS SUBTITLE.

5 COMMITTEE NOTE: This section is derived from former FL § 5-324.1.

6 The word "order" is substituted for the former, more archaic "decree".

7 5-3A-33. TIME LIMITS.

8 A COURT MAY NOT ENTER AN ORDER FOR ADOPTION UNDER THIS SUBTITLE
9 UNTIL 30 DAYS AFTER ENTRY OF A GUARDIANSHIP ORDER UNDER THIS SUBTITLE.

10 COMMITTEE NOTE: This section is derived from former FL § 5-324(2).

11 Defined term: "Guardianship" § 5-3A-01

12 5-3A-34. AUTHORITY TO GRANT ADOPTION.

13 (A) CONSENT.

14 A COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER THIS
15 SUBTITLE ONLY IF:

16 (1) THE CHILD PLACEMENT AGENCY CONSENTS; AND

17 (2) FOR A CHILD WHO IS AT LEAST 10 YEARS OLD, THE CHILD CONSENTS.

18 (B) WITHHOLDING CONSENT.

19 A CHILD PLACEMENT AGENCY MAY NOT WITHHOLD CONSENT FOR THE SOLE
20 REASON THAT THE RACE, RELIGION, COLOR, OR NATIONAL ORIGIN OF A
21 PROSPECTIVE ADOPTIVE PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.

22 (C) REVOCATION.

23 (1) A CHILD PLACEMENT AGENCY MAY REVOKE CONSENT AT ANY TIME
24 WITHIN THE LATER OF:

25 (I) 14 DAYS AFTER THE CHILD PLACEMENT AGENCY SIGNS THE
26 CONSENT; OR

27 (II) 14 DAYS AFTER THE ADOPTION PETITION IS FILED.

28 (2) A CHILD WHO IS AT LEAST 10 YEARS OLD MAY REVOKE CONSENT AT
29 ANY TIME BEFORE A COURT ENTERS AN ORDER OF ADOPTION UNDER THIS
30 SUBTITLE.

1 COMMITTEE NOTE: This section is derived from former FL § 5-311(b) and
2 (c)(1).

3 In subsection (a)(1) of this section, the former reference to the "executive
4 head" of a child placement agency "that has been awarded guardianship" is
5 deleted, for brevity. Similarly, in subsection (b) of this section, the former
6 reference to an agency's "executive head" is deleted.

7 Subsection (b) of this section is revised to include "color" and "national
8 origin" but delete "where to do so would be contrary to the best interests of
9 the child" to conform to the federal law.

10 In subsection (c)(1) of this section, references to a 14-day period are
11 substituted for the former 30-day period.

12 Defined terms: "Adoptive parent" § 5-101

13 "Child" § 5-3A-01

14 "Child placement agency" § 5-101

15 "Parent" § 5-3A-01

16 5-3A-35. ORDER FOR ADOPTION.

17 (A) EFFECT ON PARENT-CHILD RELATIONSHIP.

18 (1) THIS SUBSECTION DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL
19 TO PROVIDE FOR DISTRIBUTION OF PROPERTY BY WILL.

20 (2) EXCEPT AS PROVIDED IN § 2-123 OF THE REAL PROPERTY ARTICLE,
21 AFTER A COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS SUBTITLE:

22 (I) THE ADOPTEE:

23 1. IS THE CHILD OF THE ADOPTIVE PARENT FOR ALL
24 INTENTS AND PURPOSES; AND

25 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
26 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
27 ADOPTIVE PARENT;

28 (II) EACH OF THE ADOPTEE'S LIVING PARENTS IS:

29 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
30 TO THE ADOPTEE; AND

31 2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
32 ADOPTEE; AND

33 (III) THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF
34 THE RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

1 (B) EFFECT ON PENDING CASES.

2 AN ORDER FOR ADOPTION UNDER THIS SUBTITLE TERMINATES ALL PENDING
3 GUARDIANSHIP CASES AS TO THE ADOPTEE.

4 (C) NOTICE OF ORDER.

5 (1) WHEN A COURT ENTERS AN ORDER FOR A CHILD'S ADOPTION UNDER
6 THIS SUBTITLE, THE COURT SHALL SEND NOTICE TO:

7 (I) EACH COURT THAT HAS A PENDING GUARDIANSHIP CASE AS TO
8 THE ADOPTEE;

9 (II) EACH OF THE CHILD'S LIVING, FORMER PARENTS WHO HAS
10 NOT WAIVED THE RIGHT TO NOTICE; AND

11 (III) THE FORMER GUARDIAN OF THE CHILD.

12 (2) SERVICE ON A PARENT UNDER THIS SUBSECTION SHALL BE AT THE
13 PARENT'S LAST ADDRESS KNOWN TO THE COURT.

14 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
15 5-308(a) and (b).

16 Subsections (b) and (c) of this section are new and added to state the effect
17 on pending cases and to provide for notice of the order.

18 The introductory exception in subsection (a)(2) of this section, "[e]xcept as
19 provided in § 2-123 of the Real Property Article", is substituted for the
20 former exception "this section" - i.e., former FL § 5-308 - to reflect the
21 recodification of part of former § 5-308(d). The balance is covered by
22 subsection (a)(2)(iii) of this subtitle.

23 Defined terms: "Adoptive parent" § 5-101

24 "Child" § 5-3A-01

25 "Guardianship" § 5-3A-01

26 "Parent" § 5-3A-01

27 5-3A-36. PETITION TO INVALIDATE.

28 IF A PETITION TO INVALIDATE AN ORDER FOR ADOPTION UNDER THIS
29 SUBTITLE ON THE BASIS OF A JURISDICTIONAL OR PROCEDURAL DEFECT IS FILED
30 MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A COURT SHALL DISMISS THE
31 PETITION.

32 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
33 revised to require dismissal rather than barring receipt, as more consistent
34 with court practices.

1 The word "order" is substituted for the former, more archaic "decree".

2 5-3A-37. RESERVED.

3 5-3A-38. RESERVED.

4 PART IV. ACCESS TO ADOPTION RECORDS.

5 5-3A-39. MEDICAL AND ~~PSYCHOLOGICAL~~ MENTAL HEALTH INFORMATION.

6 (A) COMPILATION OF ADOPTEE'S RECORDS OR HISTORY.

7 A CHILD PLACEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO
8 COMPILE AND MAKE AVAILABLE TO A PROSPECTIVE ADOPTIVE PARENT:

9 (1) ALL OF THE PROSPECTIVE ADOPTEE'S MEDICAL AND ~~PSYCHIATRIC~~
10 MENTAL HEALTH RECORDS THAT THE AGENCY HAS; OR

11 (2) A COMPREHENSIVE MEDICAL AND ~~PSYCHIATRIC~~ MENTAL HEALTH
12 HISTORY OF THE PROSPECTIVE ADOPTEE.

13 (B) COMPILATION OF PARENTAL HISTORY.

14 ON REQUEST OF A PROSPECTIVE ADOPTIVE PARENT, A CHILD PLACEMENT
15 AGENCY SHALL MAKE REASONABLE EFFORTS TO COMPILE A PERTINENT MEDICAL
16 AND ~~PSYCHIATRIC~~ MENTAL HEALTH HISTORY OF EACH OF THE PROSPECTIVE
17 ADOPTEE'S PARENTS, IF AVAILABLE TO THE AGENCY, AND TO MAKE THE HISTORY
18 AVAILABLE TO THE PROSPECTIVE ADOPTIVE PARENT.

19 (C) LATER RECEIVED INFORMATION.

20 (1) IF, AFTER ADOPTION, A CHILD PLACEMENT AGENCY RECEIVES
21 MEDICAL OR ~~PSYCHOLOGICAL~~ MENTAL HEALTH INFORMATION ABOUT THE
22 ADOPTEE OR ADOPTEE'S FORMER PARENT, THE AGENCY SHALL MAKE REASONABLE
23 EFFORTS TO MAKE THE INFORMATION AVAILABLE TO THE ADOPTIVE PARENT.

24 (2) IF, AFTER ADOPTION, THE ADOPTIVE PARENT REQUESTS
25 ADDITIONAL INFORMATION, THE CHILD PLACEMENT AGENCY SHALL MAKE
26 REASONABLE EFFORTS TO NOTIFY THE FORMER PARENT, AT THE FORMER PARENT'S
27 LAST KNOWN ADDRESS AVAILABLE TO THE AGENCY, OF THE REQUEST AND THE
28 REASON FOR THE REQUEST.

29 (D) EXCLUSION OF IDENTIFYING INFORMATION.

30 A MEDICAL OR ~~PSYCHIATRIC~~ MENTAL HEALTH HISTORY COMPILED UNDER
31 THIS SECTION MAY NOT CONTAIN IDENTIFYING INFORMATION AS TO A PARENT.

32 COMMITTEE NOTE: Subsection (a) of this section is new and added to provide
33 for an agency to compile information on a prospective adoptee available to
34 the agency, including any dental records.

1 Subsections (b) and (d) of this section are derived from former FL § 5-328.

2 Subsection (c) of this section is new and added to ensure transmittal of
3 later discovered information about an adoptee and, even without a request
4 under subsection (b), a former parent.

5 In subsection (b) and (d) of this section, the references to "~~psychiatric~~"
6 "mental health" records are added to ensure inclusion of such information
7 as available, without identifying information.

8 In subsection (b) of this section, the reference to a "request" is added to
9 obviate the need to compile information that a prospective parent does not
10 want.

11 Also in subsection (b) of this section, "reasonable efforts" and "if available"
12 are added to reflect that an agency may be unable to compile all of the
13 information or contact a parent after an adoption.

14 Also in subsection (b) of this section, the defined term "child placement
15 agency" is substituted for the former reference to a "person authorized to
16 place a minor child for adoption", for consistency with the revised scope of
17 this subtitle.

18 In subsection (d) of this section, the defined term "identifying information"
19 is substituted for the former, limited reference to "identity".

20 Also in subsection (d) of this section, the former word "natural" is omitted,
21 to reflect that the parental rights of a nonbiological - i.e., adoptive parent
22 can be terminated in the same manner as a biological parent's can and
23 identifying information about such parent should be protected as well.

24 Defined terms: "Adoptive parent" § 5-101

25 "Child placement agency" § 5-101

26 "Identifying information" § 5-3A-01

27 "Parent" § 5-3A-01

28 5-3A-40. COURT AND AGENCY RECORDS.

29 (A) ACCESS.

30 (1) (I) ON REQUEST OF AN ADOPTEE OR ADOPTIVE OR FORMER
31 PARENT OF AN ADOPTEE AND WITHOUT A SHOWING OF A NEED, A CHILD
32 PLACEMENT AGENCY SHALL PROVIDE INFORMATION, OTHER THAN IDENTIFYING
33 INFORMATION, IN ITS ADOPTION RECORD ON THE ADOPTEE.

34 (II) IF A CHILD PLACEMENT AGENCY DENIES A REQUEST UNDER
35 THIS PARAGRAPH, THEN ON PETITION OF AN ADOPTEE OR ADOPTIVE OR FORMER
36 PARENT AND WITHOUT A SHOWING OF NEED, A COURT SHALL ORDER ACCESS FOR

1 THE PETITIONER TO INSPECT, IN ACCORDANCE WITH SUBSECTION (B) OF THIS
2 SECTION, THE AGENCY'S RECORD ON THE ADOPTEE.

3 (2) ON PETITION OF AN ADOPTEE OR ADOPTIVE OR FORMER PARENT OF
4 AN ADOPTEE AND WITHOUT A SHOWING OF NEED, A COURT SHALL ORDER ACCESS
5 FOR THE PETITIONER TO INSPECT, IN ACCORDANCE WITH SUBSECTION (B) OF THIS
6 SECTION, THE COURT'S RECORD ON THE ADOPTEE.

7 (B) PROTECTION OF IDENTIFYING INFORMATION.

8 A COURT MAY NOT ORDER OPENED FOR INSPECTION UNDER THIS SECTION ANY
9 PART OF A RECORD THAT CONTAINS IDENTIFYING INFORMATION.

10 COMMITTEE NOTE: This section is derived from former FL § 5-329(a) and
11 (b).

12 In subsection (a)(1) and (2) of this section, the references to an "adoptive or
13 former parent" are substituted for the former references to a "birth
14 parent", to encompass all individuals who currently are or at any time
15 previously have been a "parent". Accordingly, in subsection (b) of this
16 section, the former reference to a "former" parent is omitted.

17 Defined terms: "Adoptive parent" § 5-101

18 "Child placement agency" § 5-101

19 "Identifying information" § 5-3A-01

20 "Parent" § 5-3A-01

21 5-3A-41. URGENTLY NEEDED MEDICAL INFORMATION.

22 (A) HEARING ON NEED.

23 IF, AFTER A HEARING ON PETITION OF AN ADOPTEE OR FORMER PARENT, A
24 COURT IS SATISFIED THAT THE ADOPTEE OR BLOOD RELATIVE OF THE ADOPTEE OR
25 FORMER PARENT URGENTLY NEEDS MEDICAL INFORMATION NOT IN AGENCY AND
26 COURT RECORDS, THE COURT MAY APPOINT AN INTERMEDIARY TO TRY TO CONTACT
27 THE ADOPTEE OR A FORMER PARENT OF THE ADOPTEE FOR THE INFORMATION.

28 (B) ROLE OF INTERMEDIARY.

29 AN INTERMEDIARY APPOINTED UNDER THIS SECTION:

30 (1) ONLY MAY ADVISE AN ADOPTEE OR FORMER PARENT OF THE NEED
31 FOR MEDICAL INFORMATION; AND

32 (2) MAY NOT:

33 (I) REVEAL ANY IDENTIFYING INFORMATION ABOUT AN ADOPTEE
34 OR FORMER PARENT; OR

1 (II) TRY, IN ANY MANNER, TO ENCOURAGE OR DISCOURAGE
2 CONTACT BETWEEN AN ADOPTEE AND FORMER PARENT.

3 (C) REPORT TO COURT.

4 AN INTERMEDIARY APPOINTED UNDER THIS SECTION SHALL FILE WITH THE
5 APPOINTING COURT A CONFIDENTIAL WRITTEN REPORT ON THE INTERMEDIARY'S
6 EFFORTS TO CONTACT AN ADOPTEE OR FORMER PARENT.

7 (D) DISCLOSURE BY COURT.

8 WHEN A COURT RECEIVES A REPORT FROM AN INTERMEDIARY, THE COURT
9 MAY DISCLOSE TO THE ADOPTEE OR FORMER PARENT, WITHOUT REVEALING
10 IDENTIFYING INFORMATION ABOUT THE ADOPTEE OR ANY FORMER PARENT:

11 (1) WHETHER THE INTERMEDIARY ADVISED THE ADOPTEE OR FORMER
12 PARENT ABOUT THE NEED FOR MEDICAL INFORMATION; AND

13 (2) MEDICAL INFORMATION THAT THE ADOPTEE OR FORMER PARENT
14 PROVIDED.

15 (E) COMPENSATION.

16 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY ORDER AN
17 ADOPTEE OR FORMER PARENT TO PAY A REASONABLE FEE FOR THE SERVICES OF AN
18 INTERMEDIARY UNDER THIS SECTION.

19 COMMITTEE NOTE: This section is derived from former FL § 5-329(c)
20 through (e) and revised to allow use of an intermediary on petition of a
21 former parent and to clarify that an intermediary is allowed to contact only
22 a former parent and not a spouse, child, or other family member of a
23 former parent.

24 Throughout this section, references to a "former" parent are substituted for
25 the former references to a "birth" parent, to recognize that, e.g., a former
26 parent, by adoption, may have information about an adoptee or biological
27 parent.

28 In subsection (a) of this section, the former reference to "evidence
29 presented at the hearing" is omitted as unnecessary in light of the rules
30 governing proceedings generally and as potentially over narrow should a
31 court request memoranda or other submissions to which an opposing party
32 has an opportunity to respond.

33 Defined terms: "Adoptive parent" § 5-101

34 "Identifying information" § 5-3A-01

35 "Parent" § 5-3A-01

1 5-3A-42. VITAL RECORDS.

2 (A) DEFINITIONS.

3 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "DIRECTOR" MEANS THE STATE DIRECTOR OF SOCIAL SERVICES.

6 (3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
7 HYGIENE.

8 (B) SCOPE OF SECTION.

9 THIS SECTION APPLIES ONLY TO AN ADOPTION IN WHICH A COURT ENTERS AN
10 ORDER FOR ADOPTION ON OR AFTER JANUARY 1, 2000.

11 (C) CONSTRUCTION OF SECTION.

12 THIS SECTION DOES NOT BAR:

13 (1) AN ADOPTEE OR BIOLOGICAL PARENT FROM APPLYING FOR SEARCH,
14 CONTACT, AND REUNION SERVICES UNDER SUBTITLE 4B OF THIS TITLE; OR

15 (2) THE DIRECTOR OR A CONFIDENTIAL INTERMEDIARY FROM
16 OBTAINING A COPY OF A RECORD UNDER § 5-4B-04(C) OR § 5-4B-06(B) OR (C) OF THIS
17 TITLE.

18 (D) APPLICATION FOR RECORD.

19 (1) AN ADOPTEE WHO IS AT LEAST 21 YEARS OLD MAY APPLY TO THE
20 SECRETARY FOR A COPY OF:

21 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

22 (II) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
23 CERTIFICATE OF BIRTH, IF ANY; AND

24 (III) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED
25 BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

26 (2) IF AN ADOPTEE IS AT LEAST 21 YEARS OLD, A BIOLOGICAL PARENT
27 OF THE ADOPTEE MAY APPLY TO THE SECRETARY FOR A COPY OF:

28 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

29 (II) THE NEW CERTIFICATE OF BIRTH, IF ANY, SUBSTITUTED,
30 UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE, FOR THE ADOPTEE'S ORIGINAL
31 CERTIFICATE OF BIRTH;

1 (III) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
2 CERTIFICATE OF BIRTH; AND

3 (IV) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED
4 BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

5 (3) EACH APPLICANT UNDER THIS SUBSECTION SHALL:

6 (I) PROVIDE ALL PROOF OF IDENTITY AND OTHER RELEVANT
7 INFORMATION THAT THE SECRETARY REQUIRES; AND

8 (II) PAY THE FEE REQUIRED UNDER TITLE 4, SUBTITLE 2 OF THE
9 HEALTH - GENERAL ARTICLE FOR A COPY OF A RECORD.

10 (E) DISCLOSURE VETO.

11 (1) A BIOLOGICAL PARENT MAY:

12 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
13 DISCLOSURE OF INFORMATION ABOUT THAT PARENT IN A RECORD ACCESSIBLE
14 UNDER THIS SECTION;

15 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

16 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

17 (2) AN ADOPTEE AT LEAST 21 YEARS OLD MAY:

18 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
19 DISCLOSURE OF INFORMATION ABOUT THE ADOPTEE IN A RECORD ACCESSIBLE
20 UNDER THIS SECTION;

21 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

22 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

23 (3) IMMEDIATELY AFTER THE DIRECTOR RECEIVES A DISCLOSURE VETO
24 OR CANCELLATION UNDER THIS SUBSECTION, THE DIRECTOR SHALL FORWARD A
25 COPY TO THE SECRETARY.

26 (F) DUTIES OF SECRETARY.

27 (1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
28 SECTION.

29 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE
30 SECRETARY SHALL GIVE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF
31 THIS SECTION A COPY OF EACH RECORD THAT THE APPLICANT REQUESTED AND
32 THAT THE SECRETARY HAS ON FILE.

1 (3) WHENEVER A BIOLOGICAL PARENT APPLIES FOR A RECORD, THE
2 SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO:

3 (I) THE OTHER BIOLOGICAL PARENT, IF THAT PARENT HAS FILED
4 A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION; AND

5 (II) THE ADOPTEE AND EACH ADOPTIVE PARENT, IF THE ADOPTEE
6 HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

7 (4) WHENEVER AN ADOPTEE APPLIES FOR A RECORD, THE SECRETARY
8 SHALL REDACT FROM THE COPY ALL INFORMATION AS TO THE BIOLOGICAL PARENT,
9 IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS
10 SECTION.

11 (5) THE SECRETARY SHALL GIVE EACH APPLICANT UNDER THIS
12 SECTION NOTICE OF THE ADOPTION SEARCH, CONTACT, AND REUNION SERVICES
13 AVAILABLE UNDER THIS TITLE.

14 COMMITTEE NOTE: Subsection (a) of this section is new and added to allow
15 concise reference to the Director and Secretary.

16 Subsections (b) through (f) of this section are derived from former FL §§
17 5-3A-01 through 5-3A-07.

18 In subsection (e)(3) of this section, a duty to forward a cancellation is
19 added, for completeness.

20 Defined terms: "Adoptive parent" § 5-101

21 "Parent" § 5-3A-01

22 5-3A-43. RESERVED.

23 5-3A-44. RESERVED.

24 PART V. PROHIBITED ACTS.

25 5-3A-45. PROHIBITED PAYMENTS.

26 (A) PROHIBITED ACT.

27 EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON MAY NOT CHARGE OR
28 RECEIVE, FROM OR FOR A PARENT OR PROSPECTIVE ADOPTIVE PARENT, ANY
29 COMPENSATION FOR A SERVICE IN CONNECTION WITH:

30 (1) PLACEMENT OF AN INDIVIDUAL TO LIVE WITH A PREADOPTIVE
31 FAMILY; OR

32 (2) AN AGREEMENT FOR CUSTODY IN CONTEMPLATION OF ADOPTION.

33 (B) CONSTRUCTION OF SECTION.

1 (1) IN THIS SUBSECTION, "ADMINISTRATION" MEANS THE SOCIAL
2 SERVICES ADMINISTRATION OF THE DEPARTMENT.

3 (2) THIS SECTION DOES NOT:

4 (I) PROHIBIT PAYMENT, BY AN INTERESTED PERSON, OF A
5 CUSTOMARY AND REASONABLE CHARGE OR FEE FOR HOSPITAL, LEGAL, OR MEDICAL
6 SERVICES; OR

7 (II) PREVENT THE ADMINISTRATION, OR A PERSON THAT THE
8 ADMINISTRATION LICENSES OR SUPERVISES, FROM RECEIVING AND ACCEPTING
9 REASONABLE REIMBURSEMENT FOR COSTS OF AN ADOPTIVE SERVICE IN
10 CONNECTION WITH ADOPTION, IF:

11 1. THE REIMBURSEMENT IS IN ACCORDANCE WITH
12 STANDARDS SET BY REGULATION OF THE ADMINISTRATION; AND

13 2. THE ABILITY TO PROVIDE THIS REIMBURSEMENT DOES
14 NOT AFFECT:

15 A. THE ACCEPTABILITY OF ANY INDIVIDUAL FOR ADOPTIVE
16 SERVICES; OR

17 B. THE CHOICE OF THE MOST SUITABLE PROSPECTIVE
18 ADOPTIVE PARENT.

19 (C) DUTY OF STATE'S ATTORNEY.

20 EACH STATE'S ATTORNEY SHALL ENFORCE THIS SECTION.

21 (D) PENALTIES.

22 A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A
23 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 OR
24 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR BOTH, FOR EACH OFFENSE.

25 COMMITTEE NOTE: Subsections (a), (b)(2), (c), and (d) of this section are
26 derived from former FL § 5-327(a), (b), (d), and (e) and the substance of §
27 5-301(j), which defined "placement for adoption".

28 Subsection (b)(1) of this section is new and added to allow concise reference
29 to the Administration.

30 In subsections (a) and (b)(2)(ii)2B of this section, references to a
31 prospective "adoptive parent" are substituted for the former references to
32 the "individual who is adopting the individual" and the prospective
33 adoptive "family or individual for a child who is to be adopted", for brevity
34 and consistency with other references throughout this subtitle.

35 In subsections (a) and (d) of this section, the references to a " person" are
36 substituted for the former references to "an agency, institution, or

1 individual" and "agency or institution", to state expressly that
2 governmental units are covered - a private "agency, institution, or
3 individual" being within the defined term "person".

4 In subsection (a) of this section, the phrase "by law" is added to delineate
5 the scope of the exception.

6 In subsection (b)(2)(i) of this section, the former word "rules" is omitted in
7 light of the definition of "regulation" in current SG § 10-101 and the usage
8 of "regulation" for Executive Branch units and "rule" for Judicial Branch
9 units.

10 In subsection (c) of this section, a duty to "enforce" is substituted for the
11 former duty to "prosecute any violation", as more consistent with
12 prosecutorial discretion.

13 In subsection (d) of this section, reference to a violation of "any provision"
14 is added to clarify that a prosecutor need not show violation of every
15 provision.

16 Defined terms: "Administration" § 5-3A-45

17 "Adoptive parent" § 5-101

18 "Department" § 5-101

19 "Parent" § 5-3A-01

20 "Person" § 1-101

21 SUBTITLE 3B. INDEPENDENT ADOPTION.

22 PART I. GENERAL PROVISIONS.

23 5-3B-01. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 COMMITTEE NOTE: This subsection formerly was FL § 5-301(a). Only a
27 stylistic change is made.

28 (B) IDENTIFYING INFORMATION.

29 "IDENTIFYING INFORMATION" MEANS INFORMATION THAT REVEALS THE
30 IDENTITY OR LOCATION OF AN INDIVIDUAL.

31 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(i) and
32 restated in positive, rather than negative, terms, for consistency with
33 comparable provisions such as current FL § 5-701(i).

1 (C) PARENT.

2 (1) "PARENT" MEANS AN INDIVIDUAL WHO, AT ANY TIME BEFORE A
3 COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS SUBTITLE:

4 (I) MEETS A CRITERION IN § 5-3B-05(A) OF THIS SUBTITLE; OR

5 (II) IS THE MOTHER.

6 (2) "PARENT" DOES NOT INCLUDE AN INDIVIDUAL WHOM A COURT HAS
7 ADJUDICATED NOT TO BE A FATHER OR MOTHER.

8 COMMITTEE NOTE: This subsection is new and added to allow concise
9 reference to an individual who is a party to a case under this subtitle due
10 to a parental relationship.

11 Defined terms: "Includes" § 1-101

12 "Including" § 1-101

13 (D) PROSPECTIVE ADOPTEE.

14 "PROSPECTIVE ADOPTEE" MEANS AN INDIVIDUAL WHO IS THE SUBJECT OF A
15 PETITION FOR ADOPTION UNDER THIS SUBTITLE.

16 COMMITTEE NOTE: This subsection is new and added to allow concise and
17 consistent reference to an individual subject to an adoption petition under
18 this subtitle.

19 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in new
20 § 5-3B-01, definitions in §§ 1-101 and 5-101 of this article apply to this
21 subtitle.

22 5-3B-02. SCOPE OF SUBTITLE; EFFECT.

23 (A) APPLICATION.

24 THIS SUBTITLE APPLIES ONLY TO AN ADOPTION THAT IS ARRANGED OTHER
25 THAN BY A CHILD PLACEMENT AGENCY.

26 (B) EFFECT.

27 EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBTITLE, IT DOES NOT AFFECT AN
28 ADOPTION:

29 (1) FOR WHICH A COURT ENTERED AN ORDER ON OR BEFORE
30 ~~SEPTEMBER 30~~ DECEMBER 31, 2005; OR

31 (2) PENDING ON ~~OCTOBER 1, 2005~~ JANUARY 1, 2006.

32 COMMITTEE NOTE: Subsection (a) of this section is new and added to make
33 clear the scope of this subtitle.

1 Subsection (b) of this section is substituted for former FL § 5-302, which
2 stated the effect of the former FL provisions and became obsolete with the
3 enactment of this subtitle. This substitution is not intended to limit the
4 access to records in cases filed ~~or postadoption contact agreements entered~~
5 ~~into on or before October 1, 2005~~ on or before September 30 December 31,
6 2005.

7 Defined term: "Child placement agency" § 5-101

8 5-3B-03. STATEMENT OF FINDINGS; PURPOSES.

9 (A) STATEMENT OF FINDINGS.

10 THE GENERAL ASSEMBLY FINDS THAT THE POLICIES AND PROCEDURES OF
11 THIS SUBTITLE ARE DESIRABLE AND SOCIALLY NECESSARY.

12 (B) PURPOSES.

13 THE PURPOSES OF THIS SUBTITLE ARE TO:

14 (1) TIMELY PROVIDE PERMANENT AND SAFE HOMES FOR CHILDREN
15 CONSISTENT WITH THEIR BEST INTERESTS;

16 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
17 THEIR PARENTS;

18 (3) ENSURE ADOPTION ONLY BY INDIVIDUALS FIT FOR THE
19 RESPONSIBILITY;

20 (4) PROTECT PARENTS FROM MAKING HURRIED OR ILL-CONSIDERED
21 AGREEMENTS TO TERMINATE THEIR PARENTAL RIGHTS;

22 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY GIVING THEM
23 INFORMATION ABOUT PROSPECTIVE ADOPTEES AND THEIR BACKGROUNDS; AND

24 (6) PROTECT ADOPTIVE PARENTS FROM FUTURE DISTURBANCES OF
25 THEIR RELATIONSHIPS WITH ADOPTEES BY FORMER PARENTS.

26 COMMITTEE NOTE: This section is derived from former FL § 5-303.

27 In subsection (a) of this section, the former clause "that concern adoption"
28 is deleted from this subtitle as surplusage.

29 In subsection (b)(1) of this section, reference to "timely" provision of
30 "permanent and safe homes ... consistent with [the children's] best
31 interests" is substituted for the former reference to "stable homes that
32 protect ... safety and health", to emphasize the need for prompt resolution
33 of a case in accordance with the "best interests" standard applicable under,
34 e. g., former FL §§ 5-311(b)(2), 5-313(a), (c), and (d)(1) and (3), 5-317(g)(1),
35 5-319(f)(1) and (2) and (g)(1), and 5-323(a)(2).

36 In subsection (b)(2) and (4) of this section, the former word "natural" is

1 omitted, to reflect that the parental rights of a nonbiological - i. e.,
2 adoptive - parent can be terminated in the same manner as a biological
3 parent's can. Similarly, in subsection (b)(6) of this section, the word
4 "former" is substituted for "natural", to encompass all individuals who
5 have at any time previously been a "parent".

6 In subsection (b)(5) of this section, the word "prospective" is added to
7 modify "adoptive parents", to reflect that information is provided before
8 completion of an adoption.

9 Defined terms: "Adoptive parent" § 5-101

10 "Parent" § 5-3B-01

11 "Prospective adoptee" § 5-3B-01

12 5-3B-04. FOREIGN ORDERS.

13 (A) "ORDER" DEFINED.

14 IN THIS SECTION, "ORDER" INCLUDES ANY ACTION THAT, UNDER THE LAWS OF
15 ANOTHER JURISDICTION, HAS THE FORCE AND EFFECT OF A COMPARABLE JUDICIAL
16 ORDER UNDER THIS SUBTITLE.

17 (B) ORDER OF ANOTHER STATE.

18 IN ACCORDANCE WITH THE UNITED STATES CONSTITUTION, THIS STATE SHALL
19 ACCORD FULL FAITH AND CREDIT TO:

20 (1) AN ORDER OF ANOTHER STATE AS TO ADOPTION OR GUARDIANSHIP
21 IN COMPLIANCE WITH THE OTHER STATE'S LAWS; AND

22 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
23 OTHER STATE'S LAWS.

24 (C) OTHER FOREIGN ORDERS.

25 AS TO A JURISDICTION OTHER THAN A STATE:

26 (1) AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN
27 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
28 EFFECT AS AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS STATE;
29 AND

30 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
31 JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL EFFECT AS TERMINATION OF
32 PARENTAL RIGHTS IN THIS STATE.

33 (D) CONSTRUCTION.

34 THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL TO
35 PETITION A COURT IN THIS STATE FOR ADOPTION OF AN ADOPTEE IF:

1 (1) THE INDIVIDUAL ADOPTED THE ADOPTEE IN COMPLIANCE WITH
2 THE LAWS OF A JURISDICTION OTHER THAN A STATE; AND

3 (2) THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
4 VERIFIES THE VALIDITY OF THAT ADOPTION BY GRANTING, UNDER THE FEDERAL
5 IMMIGRATION AND NATIONALITY ACT, AN IR-3 VISA FOR THE ADOPTEE.

6 COMMITTEE NOTE: Subsection (a) of this section is new and added to cover
7 administrative or other nonjudicial orders or proceedings that, under the
8 laws of another jurisdiction, have the force and effect of a comparable
9 judicial order.

10 Subsections (b)(1) and (c)(1) of this section are derived from former FL §
11 5-326 but bifurcated to reflect that the full faith and credit clause is
12 applicable to "states" as provided in "the United States Constitution".
13 Accordingly, in subsections (b) and (c) of this section, respectively, the
14 defined term "state" and the reference to a "jurisdiction other than a state"
15 are substituted for the former term "jurisdiction". Subsections (b)(1) and
16 (c)(1) of this section are revised to cover orders for "guardianship", as well.

17 Subsections (b)(2) and (c)(2) of this section are new and added to provide
18 expressly for recognition of foreign orders relating to termination of
19 parental rights.

20 Subsection (b) of this section is derived from former FL § 5-313.1.

21 In subsections (b)(1) and (c)(1) of this section, references to "compliance
22 with the ... laws" are added to state expressly that an order being
23 recognized must be a lawful order.

24 Also in subsections (b)(1) and (c)(1) of this section, the word "order" is
25 substituted for the former, more archaic "decree".

26 In subsection (d)(2) of this section, the reference to the "Citizenship and
27 Immigration Services" is substituted for the former, obsolete reference to
28 the "Immigration and Naturalization Service".

29 Defined terms: "Includes" § 1-101

30 "Including" § 1-101

31 "Order" § 5-3B-04

32 "State" § 1-101

33 5-3B-05. PATERNITY.

34 (A) ~~PRESUMPTION~~ IN GENERAL.

35 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
36 FATHER IF:

1 (1) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
2 THE CHILD'S CONCEPTION;

3 (2) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
4 THE CHILD'S BIRTH;

5 (3) THE MAN IS NAMED AS THE FATHER ON THE CHILD'S BIRTH
6 CERTIFICATE AND HAS NOT SIGNED A DENIAL OF PATERNITY;

7 (4) THE CHILD'S MOTHER HAS NAMED THE MAN AS THE CHILD'S FATHER
8 AND THE MAN HAS NOT SIGNED A DENIAL OF PATERNITY;

9 (5) THE MAN HAS BEEN ADJUDICATED TO BE THE CHILD'S FATHER;

10 (6) THE MAN HAS ACKNOWLEDGED HIMSELF, ORALLY OR IN WRITING,
11 TO BE THE CHILD'S FATHER AND THE MOTHER AGREES; OR

12 (7) ON THE BASIS OF GENETIC TESTING, THE MAN IS INDICATED TO BE
13 THE CHILD'S BIOLOGICAL FATHER.

14 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

15 (1) A PETITIONER UNDER THIS SUBTITLE SHALL GIVE A COURT NOTICE
16 THAT A MAN WHO IS NOT NAMED IN THE PETITION AND HAS NOT BEEN EXCLUDED
17 AS A FATHER CLAIMS PATERNITY.

18 (2) AFTER A REQUEST OF A PARTY OR CLAIMANT AND BEFORE RULING
19 ON A PETITION FOR ADOPTION UNDER THIS SUBTITLE, A COURT SHALL HOLD A
20 HEARING ON THE ISSUE OF PATERNITY.

21 COMMITTEE NOTE: Subsections (a)(1) through (6) and (b) of this section are
22 derived from former FL § 5-310.

23 Subsection (a)(7) of this section is new and added to reflect the increasing
24 reliance on the accuracy of genetic testing.

25 The introductory clause of subsection (a) of this section, "[u]nless a court
26 excludes a man as the father of a child", is substituted for the former
27 disclaimer "unless ... his nonpaternity has been established to the
28 satisfaction of the court by affidavit or testimony", which pertained only to
29 the provisions revised in subsection (a)(3) and (4) of this section, as a
30 finding by a court should pertain to all of the criteria under subsection (a)
31 of this section.

32 In subsection (a) of this section, the word "man" is substituted for the
33 former reference to "an individual who does not meet the criteria for being
34 a natural father ... claims to be the natural father", for brevity and to
35 reflect that fatherhood could result from, e.g., an earlier adoption.

36 In subsection (b)(2) of this section, the limitation "before ruling on a

1 petition for adoption" is added to clarify the period during which a court
2 may act.

3 Also in subsection (b)(2) of this section, the reference to a "request of a
4 party or claimant" is substituted for the former reference to "receipt of
5 notice", to allow a claimant, as well as a petitioner, to request a hearing but
6 obviate the need for a hearing if no one requests one.

7 5-3B-06. APPOINTED COUNSEL.

8 (A) PARENT.

9 (1) IN A CASE UNDER THIS SUBTITLE, A COURT SHALL APPOINT AN
10 ATTORNEY TO REPRESENT A PARENT WHO:

11 (I) HAS A DISABILITY THAT MAKES THE PARENT INCAPABLE OF
12 EFFECTIVELY PARTICIPATING IN THE CASE; OR

13 (II) WHEN THE PARENT MUST DECIDE WHETHER TO CONSENT TO
14 ADOPTION, IS STILL A MINOR.

15 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PARENT
16 INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS OWN
17 MOTION OR ON MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE PARENT.

18 (B) PROSPECTIVE ADOPTEE.

19 (1) IN A CASE UNDER THIS SUBTITLE, A COURT SHALL APPOINT AN
20 ATTORNEY TO REPRESENT A PROSPECTIVE ADOPTEE WHO:

21 (I) HAS A DISABILITY THAT MAKES THE PROSPECTIVE ADOPTEE
22 INCAPABLE OF EFFECTIVELY PARTICIPATING IN THE CASE; AND

23 (II) WHEN THE PROSPECTIVE ADOPTEE MUST DECIDE WHETHER
24 TO CONSENT TO ADOPTION, IS AT LEAST 10 YEARS OLD.

25 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PROSPECTIVE
26 ADOPTEE INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS
27 OWN MOTION OR ON MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE
28 PROSPECTIVE ADOPTEE.

29 (C) DUAL REPRESENTATION.

30 AN ATTORNEY OR FIRM:

31 (1) MAY REPRESENT MORE THAN ONE PARTY IN A CASE UNDER THIS
32 SUBTITLE ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT ALLOW; AND

33 (2) MAY NOT REPRESENT A PROSPECTIVE ADOPTIVE PARENT AND
34 PARENT IN THE SAME ADOPTION CASE.

1 (D) COMPENSATION.

2 COUNSEL APPOINTED UNDER THIS SECTION MAY BE COMPENSATED FOR
3 REASONABLE FEES, AS APPROVED BY THE COURT.

4 COMMITTEE NOTE: Subsection (a)(1)(i) of this section is derived from former
5 FL § 5-323(a)(1)(ii), as it related to adoptions.

6 Subsection (a)(1)(ii) of this section is derived from former FL §
7 5-323(a)(1)(iii), as it related to adoptions and the substance of former FL §
8 5-301(h).

9 Subsections (a)(2) and (b)(2) of this section are derived from former FL §
10 5-323(c).

11 Subsection (b)(1) of this section is derived from former FL § 5-323(a)(1)(i),
12 as it related to adoptions.

13 Subsection (c) of this section is substituted for former FL § 5-323(e), to
14 ensure that dual representation is allowed only in accordance with the
15 Rules of Professional Conduct, and, in any event, not for both the
16 prospective adoptive parent and parent.

17 Subsection (d) of this section is derived from the first sentence of former
18 FL § 5-323(d).

19 In subsection (a) of this section, the former word "natural" is omitted as a
20 nonbiological - i. e., adoptive - parent can allow adoption in the same
21 manner as a biological parent can.

22 In subsection (a)(1)(i) of this section, reference to "effectively participating"
23 is substituted for the former reference to "consenting and effectively
24 participating", to conform to former FL § 5-323(c) - subsection (a)(2) of this
25 section - which, by reference to "consenting and otherwise effectively
26 participating", made clear that consent is part of effective participation.

27 In subsections (a)(2) and (b) of this section, the newly defined terms
28 "parent" and "prospective adoptee" are substituted for the former word
29 "individual" for consistency with other provisions of this section.

30 Former FL § 5-323(a)(1)(iv), which provided for representation in a
31 contested adoption case, is omitted from this subtitle.

32 As to "minor", *see* Art. 1, § 24 of the Code.

33 Defined terms: "Adoptive parent" § 5-3B-01

34 "Disability" § 5-101

35 "Parent" § 5-3B-01

36 "Prospective adoptee" § 5-3B-01

1 5-3B-07. AGREEMENT FOR POSTADOPTION CONTACT.

2 (A) AUTHORIZED.

3 (1) A PROSPECTIVE ADOPTIVE PARENT AND PARENT OF A PROSPECTIVE
4 ADOPTEE MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW CONTACT, AFTER
5 THE ADOPTION, BETWEEN:

6 (I) THE PARENT OR OTHER RELATIVE OF THE ADOPTEE; AND

7 (II) THE ADOPTEE AND ADOPTIVE PARENT.

8 (2) AN ADOPTIVE PARENT AND FORMER PARENT OF AN ADOPTEE
9 UNDER THIS SUBTITLE MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW
10 CONTACT BETWEEN:

11 (I) A RELATIVE OR FORMER PARENT OF THE ADOPTEE; AND

12 (II) THE ADOPTEE OR ADOPTIVE PARENT.

13 (B) CONSTRUCTION OF AGREEMENT.

14 AN AGREEMENT MADE UNDER THIS SECTION APPLIES TO CONTACT WITH AN
15 ADOPTEE ONLY WHILE THE ADOPTEE IS A MINOR.

16 (C) DISSEMINATION; REDACTION.

17 AN INDIVIDUAL WHO PREPARES AN AGREEMENT DESCRIBED IN SUBSECTION
18 (A)(1) OF THIS SECTION:

19 (1) SHALL PROVIDE A COPY TO EACH PARTY IN A CASE PENDING AS TO
20 THE PROSPECTIVE ADOPTEE UNDER THIS SUBTITLE; AND

21 (2) IF THE AGREEMENT SO PROVIDES, SHALL REDACT IDENTIFYING
22 INFORMATION FROM THE COPIES.

23 (D) EFFECT OF NONCOMPLIANCE.

24 FAILURE TO COMPLY WITH A CONDITION OF AN AGREEMENT MADE UNDER
25 THIS SECTION IS NOT A GROUND FOR REVOKING CONSENT TO, OR SETTING ASIDE AN
26 ORDER FOR, ADOPTION.

27 (E) MEDIATION.

28 IF A DISPUTE AS TO AN AGREEMENT MADE UNDER THIS SECTION ARISES, A
29 COURT MAY ORDER THE PARTIES TO ENGAGE IN MEDIATION TO TRY TO RESOLVE
30 THE DISPUTE.

31 (F) ENFORCEMENT.

1 (1) A COURT SHALL ENFORCE A WRITTEN AGREEMENT MADE IN
2 ACCORDANCE WITH THIS SECTION UNLESS ENFORCEMENT IS NOT IN THE
3 ADOPTEE'S BEST INTERESTS.

4 (2) IF A PARTY MOVES TO MODIFY A WRITTEN AGREEMENT MADE IN
5 ACCORDANCE WITH THE SECTION AND SATISFIES THE COURT THAT MODIFICATION
6 IS JUSTIFIED BECAUSE AN EXCEPTIONAL CIRCUMSTANCE HAS ARISEN AND THE
7 COURT FINDS MODIFICATION TO BE IN AN ADOPTEE'S BEST INTERESTS, THE COURT
8 MAY MODIFY THE AGREEMENT.

9 COMMITTEE NOTE: This section is new and added to create a formal
10 procedure for postadoption visits or other contact. ~~This section is not~~
11 ~~intended, however, to preclude other agreements. This section is not~~
12 ~~intended to invalidate agreements entered into on or before ~~September 30~~~~
13 ~~December 31, 2005.~~

14 As to "minor", *see* Art. 1, § 24 of the Code.

15 Defined terms: "Adoptive parent" § 5-101

16 "Identifying information" § 5-3B-01

17 "Parent" § 5-3B-01

18 "Prospective adoptee" § 5-3B-01

19 5-3B-08. ASSESSMENT OF COSTS.

20 (A) INDEPENDENT COUNSEL AND COUNSELING.

21 A COURT MAY ORDER AN ADOPTIVE PARENT TO PAY, WHOLLY OR PARTLY,
22 REASONABLE FEES FOR A FORMER PARENT'S:

23 (1) INDEPENDENT COUNSEL; OR

24 (2) ADOPTION COUNSELING OR GUIDANCE FOR A REASONABLE TIME.

25 (B) OTHER COSTS.

26 EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, A COURT MAY
27 ASSIGN AMONG THE PARTIES TO A CASE UNDER THIS SUBTITLE COUNSEL FEES,
28 COUNSELING OR GUIDANCE FEES, AND COSTS OF TESTING UNDER § 5-3B-05 OF THIS
29 SUBTITLE, AS THE COURT CONSIDERS APPROPRIATE.

30 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
31 5-320(b)(1).

32 Subsection (b) of this section is derived from the second sentence of former
33 FL § 5-323(d) and is revised to include costs for testing.

34 Defined terms: "Adoptive parent" § 5-101

35 "Parent" § 5-3B-01

1 5-3B-09. APPEAL.

2 A PARTY TO A CASE UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF
3 SPECIAL APPEALS FROM AN INTERLOCUTORY OR FINAL ORDER.

4 COMMITTEE NOTE: This section is derived from former FL § 5-330.

5 5-3B-10. RESERVED.

6 5-3B-11. RESERVED.

7 PART II. ADOPTION PROCEEDING.

8 5-3B-12. AUTHORITY TO PLACE CHILD FOR ADOPTION.

9 EXCEPT FOR A CHILD BEING PLACED FOR ADOPTION WITH A RELATIVE OF THE
10 CHILD, BY BLOOD OR MARRIAGE WITHIN 4 DEGREES OF AFFINITY OR
11 CONSANGUINITY UNDER THE CIVIL LAW RULE, A PARENT OR GRANDPARENT MAY
12 PLACE A CHILD FOR ADOPTION ONLY IF:

13 (1) A PETITION FOR ADOPTION IS FILED IN COURT; AND

14 (2) THE COURT, BY ORDER, SANCTIONS THE PLACEMENT PENDING
15 FINAL ACTION ON THE PETITION.

16 COMMITTEE NOTE: This section is derived from former FL § 5-507(c).

17 Defined term: "Parent" § 5-3B-01

18 5-3B-13. PETITION.

19 (A) ELIGIBLE ADOPTEE.

20 ANY ADULT OR MINOR MAY BE ADOPTED UNDER THIS SUBTITLE.

21 (B) PETITIONER.

22 (1) ANY ADULT MAY PETITION A COURT FOR ADOPTION.

23 (2) IF A PETITIONER IS MARRIED, THE PETITIONER'S SPOUSE SHALL
24 JOIN IN THE PETITION UNLESS THE SPOUSE:

25 (I) IS SEPARATED FROM THE PETITIONER UNDER A
26 CIRCUMSTANCE THAT GIVES THE PETITIONER A GROUND FOR ANNULMENT OR
27 DIVORCE;

28 (II) IS NOT COMPETENT TO JOIN IN THE PETITION; OR

29 (III) 1. IS A PARENT OF THE PROSPECTIVE ADOPTEE; AND

30 2. HAS CONSENTED TO THE ADOPTION IN ACCORDANCE
31 WITH THIS SUBTITLE.

1 (C) PENDING CASE.

2 BEFORE A PETITION IS FILED UNDER THIS SUBTITLE, A PETITIONER SHALL
3 MOVE FOR, AND A COURT SHALL ORDER THAT, A CASE PENDING UNDER SUBTITLE 3
4 OF THIS TITLE BE CLOSED.

5 (D) AMENDED PETITION.

6 IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY OF AN
7 ORDER UNDER THIS SUBTITLE, THE PETITIONER SHALL AMEND THE PETITION
8 ACCORDINGLY.

9 COMMITTEE NOTE: Subsection (a) of this section is new and added to state
10 expressly that the prospective adoptee's age does not affect adoption under
11 this subtitle.

12 Subsections (b) and ~~(e)~~ (d) of this section are derived from former FL §§
13 5-309(a) and 5-315.

14 Subsection ~~(d)~~ (c) of this section is new and added to avoid overlapping
15 cases by requiring pending guardianship cases be closed.

16 In subsection (b)(2)(iii)1 of this section, the former word "natural" is
17 omitted as a nonbiological - i.e., adoptive - parent can allow adoption in
18 the same manner as a biological parent can.

19 As to "adult" and "minor", *see* Art. 1, § 24 of the Code.

20 Defined terms: "Parent" § 5-3B-01

21 "Prospective adoptee" § 5-3B-01

22 5-3B-14. NOTICE OF FILING.

23 A COURT SHALL GIVE NOTICE OF THE FILING OF AN ADOPTION PETITION TO
24 EACH INDIVIDUAL WHOSE CONSENT HAS BEEN FILED UNDER THIS SUBTITLE AND
25 WHO HAS NOT WAIVED THE RIGHT TO NOTICE.

26 COMMITTEE NOTE: This section is new and added to state an express duty
27 for notice by a clerk of court.

28 5-3B-15. ORDER TO SHOW CAUSE.

29 (A) REQUIREMENT.

30 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO A PROSPECTIVE ADOPTEE, A
31 PETITIONER SHALL SERVE THE ORDER:

32 (1) ON EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS WHO
33 HAS NOT CONSENTED TO THE ADOPTION; AND

1 (2) IF THE PROSPECTIVE ADOPTEE IS AT LEAST 10 YEARS OLD AND HAS
2 NOT CONSENTED TO THE ADOPTION, ON THE PROSPECTIVE ADOPTEE.

3 (B) METHOD.

4 SERVICE UNDER THIS SECTION SHALL BE BY:

5 (1) PERSONAL SERVICE; OR

6 (2) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
7 REQUESTED.

8 (C) PARENTAL ADDRESS.

9 SERVICE UNDER THIS SECTION SHALL BE ATTEMPTED AT THE PARENT'S LAST
10 ADDRESS KNOWN TO THE PETITIONER.

11 (D) PUBLICATION.

12 (1) IF A COURT IS SATISFIED, BY AFFIDAVIT OR TESTIMONY, THAT,
13 AFTER REASONABLE EFFORTS IN GOOD FAITH, A PETITIONER COULD NOT IDENTIFY
14 A PARENT OR COULD NOT EFFECT SERVICE ON A PARENT, THE COURT SHALL ORDER
15 SERVICE THROUGH NOTICE BY PUBLICATION AS TO THAT PARENT.

16 (2) NOTICE UNDER THIS SUBSECTION SHALL CONSIST OF
17 SUBSTANTIALLY THE FOLLOWING STATEMENT:

18 TO: (FATHER'S NAME) TO: (MOTHER'S NAME) TO: UNKNOWN PARENT "YOU ARE
19 HEREBY NOTIFIED THAT AN ADOPTION CASE HAS BEEN FILED IN THE CIRCUIT
20 COURT FOR (COUNTY NAME), CASE NO. (NUMBER). ALL PERSONS WHO BELIEVE
21 THEMSELVES TO BE PARENTS OF A (MALE OR FEMALE) CHILD BORN ON (DATE OF
22 BIRTH) IN (CITY, STATE) TO (MOTHER'S AND FATHER'S NAMES AND DATES OF BIRTH)
23 SHALL FILE A WRITTEN RESPONSE. A COPY OF THE PETITION SHOW CAUSE ORDER
24 MAY BE OBTAINED FROM THE CLERK'S OFFICE AT (ADDRESS) AND (TELEPHONE
25 NUMBER). IF YOU DO NOT FILE A WRITTEN OBJECTION BY (DEADLINE), YOU WILL
26 HAVE AGREED TO THE PERMANENT LOSS OF YOUR PARENTAL RIGHTS TO THIS
27 CHILD."

28 (3) SERVICE UNDER THIS SUBSECTION SHALL BE BY:

29 (I) PUBLICATION AT LEAST ONCE IN ONE OR MORE NEWSPAPERS
30 IN GENERAL CIRCULATION IN THE COUNTY WHERE THE PETITION IS FILED OR, IF
31 DIFFERENT, WHERE THE PARENT'S LAST ADDRESS KNOWN TO THE PETITIONER IS
32 LOCATED; AND

33 (II) POSTING FOR AT LEAST 30 DAYS ON A WEBSITE OF THE
34 DEPARTMENT.

35 (4) THE DEPARTMENT MAY CHARGE A PETITIONER A REASONABLE FEE
36 TO COVER THE COST OF POSTING.

1 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
2 5-322(a)(3) and, as it related to adoption, (1)(i).

3 Subsection (b) of this section is substituted for the former reference to
4 "both certified and private process" in former FL § 5-322(c)(2).

5 Subsection (c) of this section is derived from former FL § 5-322(a)(3).

6 Subsection (d)(1), (2), and (3)(i) of this section is derived from former FL §
7 5-322(c)(1) and (2).

8 Subsection (d)(3)(ii) and (4) of this section is new and added to afford an
9 additional means of notice by publication on a website at a reasonable cost.

10 In subsection (d)(1) of this section, reference to "reasonable efforts in good
11 faith" is added.

12 Also in subsection (d)(1) of this section, the former limitation "[i]f the child
13 has not been adjudicated to be a child in need of assistance in a prior
14 juvenile proceeding" is deleted as unnecessary in light of the scope of this
15 subtitle under new § 5-3B-02(a).

16 As to a newspaper in general circulation, *see* Art. 1, § 28 of the Code.

17 Defined terms: "County" § 1-101

18 "Department" § 5-101

19 "Parent" § 5-3B-01

20 "Prospective adoptee" § 5-3B-01

21 5-3B-16. INVESTIGATION.

22 ~~IN ADDITION TO ANY INVESTIGATION REQUIRED UNDER § 5-3B-19 OF THIS~~
23 ~~SUBTITLE, BEFORE BEFORE RULING ON AN ADOPTION PETITION, A COURT MAY~~
24 ~~ORDER ANY INVESTIGATION THAT THE COURT CONSIDERS NECESSARY.~~

25 COMMITTEE NOTE: This section is derived from the references to
26 investigations in former FL § 5-317(c)(1) and (g)(1).

27 5-3B-17. HEARING ON PETITION.

28 ~~(A) SCOPE OF SECTION.~~

29 ~~THIS SECTION DOES NOT APPLY IF A PETITIONER FOR ADOPTION IS A~~
30 ~~STEPARENT.~~

31 ~~(B) HEARING.~~

32 A COURT SHALL HOLD A HEARING BEFORE ENTERING AN ORDER FOR
33 ADOPTION UNDER THIS SUBTITLE.

1 COMMITTEE NOTE: This section is derived from the references to hearings in
2 former FL § ~~5-317(e)(1)~~ and ~~(g)(1)~~ 5-324.1.

3 5-3B-18. TIME LIMIT.

4 A COURT MAY NOT ENTER AN ORDER FOR ADOPTION UNDER THIS SUBTITLE
5 UNTIL EXPIRATION OF THE REVOCATION PERIOD.

6 COMMITTEE NOTE: This section is derived from former FL § 5-324(2).

7 5-3B-19. AUTHORITY TO GRANT ADOPTION.

8 A COURT MAY ENTER AN ORDER FOR ADOPTION ONLY IF:

9 (1) (I) EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS
10 CONSENTS:

11 1. IN WRITING; OR

12 2. BY FAILURE TO TIMELY FILE NOTICE OF OBJECTION
13 AFTER BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS
14 SUBTITLE; AND

15 (II) IF THE PROSPECTIVE ADOPTEE IS AT LEAST 10 YEARS OLD, THE
16 PROSPECTIVE ADOPTEE CONSENTS; OR

17 (2) IN ACCORDANCE WITH § 5-3B-21 OF THIS SUBTITLE, THE COURT
18 ORDERS ADOPTION WITHOUT CONSENT OTHERWISE REQUIRED UNDER THIS
19 SECTION.

20 COMMITTEE NOTE: This section is derived from former FL § 5-317(c)(2), as it
21 related to adoption under this subtitle, and revised to clarify that failure to
22 respond to a show cause order is deemed to be consent.

23 The former word "natural" is deleted, to reflect that the parental rights of
24 a nonbiological - i.e., adoptive - parent can be terminated in the same
25 manner as a biological parent's can.

26 Defined terms: "Parent" § 5-3B-01

27 "Prospective adoptee" § 5-3B-01

28 5-3B-20. CONSENT.

29 (A) CONTENTS.

30 CONSENT TO ADOPTION UNDER THIS SUBTITLE IS NOT VALID UNLESS THE
31 CONSENT:

32 (1) IS GIVEN AFTER THE PROSPECTIVE ADOPTEE IS BORN;

33 (2) IS GIVEN IN A LANGUAGE THAT THE PARTY UNDERSTANDS;

- 1 (3) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH:
- 2 (I) IS GIVEN BEFORE A JUDGE ON THE RECORD; OR
- 3 (II) IS ACCOMPANIED BY THE AFFIDAVIT OF A TRANSLATOR
4 STATING THAT THE TRANSLATION OF THE DOCUMENT OF CONSENT IS ACCURATE;
- 5 (4) CONTAINS AN EXPRESS NOTICE OF:
- 6 (I) THE RIGHT TO REVOKE CONSENT, AT ANY TIME WITHIN 30
7 DAYS AFTER THE CONSENT IS SIGNED;
- 8 (II) ~~THE OBLIGATION OF THE PERSON GIVING CONSENT TO ADVISE~~
9 ~~THE COURT AND PETITIONER OF EACH CHANGE OF THE UNIT'S OR PERSON'S~~
10 ~~ADDRESS;~~
- 11 ~~(III)~~ THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER §
12 5-3B-29 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, SIBLINGS, AND
13 PARENTS UNDER SUBTITLE 4B OF THIS TITLE; AND
- 14 ~~(IV)~~ (III) THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-3B-29
15 OF THIS SUBTITLE;
- 16 (5) EXCEPT AS TO AN ADOPTION BY A SPOUSE OF THE PROSPECTIVE
17 ADOPTEE'S PARENT OR A RELATIVE OF THE PROSPECTIVE ADOPTEE, STATES THAT
18 THE PARENT HAS BEEN ADVISED OF THE PARENT'S RIGHTS TO:
- 19 (I) HAVE INDEPENDENT COUNSEL; AND
- 20 (II) RECEIVE ADOPTION COUNSELING AND GUIDANCE;
- 21 (6) STATES WHETHER THE PARENT CHOSE TO HAVE OR NOT HAVE
22 COUNSEL OR COUNSELING; AND
- 23 (7) IS ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL APPOINTED UNDER
24 § 5-3B-06 OF THIS SUBTITLE STATING THAT A PARENT WHO IS A MINOR OR HAS A
25 DISABILITY GIVES CONSENT KNOWINGLY AND VOLUNTARILY.
- 26 (B) REVOCATION PERIOD.
- 27 (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
28 PARENT MAY REVOKE CONSENT AT ANY TIME WITHIN 30 DAYS AFTER THE PARENT
29 SIGNS THE CONSENT.
- 30 (II) A PARENT MAY NOT REVOKE CONSENT FOR ADOPTION OF A
31 PROSPECTIVE ADOPTEE IF:
- 32 1. IN THE PRECEDING YEAR, THE PARENT HAS REVOKED
33 CONSENT FOR OR FILED A NOTICE OF OBJECTION TO ADOPTION OF THE
34 PROSPECTIVE ADOPTEE; ~~OR~~ AND

1 THIS SECTION APPLIES ONLY IF A PARENT AFFIRMATIVELY WITHHOLDS
2 CONSENT BY FILING A NOTICE OF OBJECTION.

3 (B) CUSTODIAN.

4 (1) A COURT MAY ALLOW ADOPTION, WITHOUT PARENTAL CONSENT
5 OTHERWISE REQUIRED UNDER THIS SUBTITLE, BY A PETITIONER WHO HAS
6 EXERCISED PHYSICAL CARE, CONTROL, OR CUSTODY OVER THE PROSPECTIVE
7 ADOPTEE FOR AT LEAST 180 DAYS, IF THE COURT FINDS BY CLEAR AND CONVINCING
8 EVIDENCE THAT:

9 (I) THE PARENT HAS NOT HAD CUSTODY OF THE PROSPECTIVE
10 ADOPTEE FOR AT LEAST 1 YEAR;

11 (II) THE PROSPECTIVE ADOPTEE HAS SIGNIFICANT EMOTIONAL
12 TIES TO AND FEELINGS FOR THE PETITIONER; AND

13 (III) THE PARENT:

14 1. HAS NOT MAINTAINED MEANINGFUL CONTACT WITH THE
15 PROSPECTIVE ADOPTEE WHILE THE PETITIONER HAD CUSTODY, NOTWITHSTANDING
16 AN OPPORTUNITY TO DO SO;

17 2. HAS FAILED TO CONTRIBUTE TO THE PROSPECTIVE
18 ADOPTEE'S PHYSICAL CARE AND SUPPORT, NOTWITHSTANDING THE ABILITY TO DO
19 SO;

20 3. HAS SUBJECTED THE PROSPECTIVE ADOPTEE TO:

21 A. CHRONIC ABUSE;

22 B. CHRONIC AND LIFE-THREATENING NEGLECT;

23 C. SEXUAL ABUSE; OR

24 D. TORTURE;

25 4. HAS BEEN CONVICTED OF ABUSE OF ANY OFFSPRING;

26 5. HAS BEEN CONVICTED, IN ANY STATE OR ANY COURT OF
27 THE UNITED STATES, OF:

28 A. A CRIME OF VIOLENCE AGAINST:

29 I. A MINOR OFFSPRING OF THE PARENT;

30 II. THE CHILD; OR

31 III. ANOTHER PARENT OF THE CHILD; OR

1 B. AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
2 COMMIT A CRIME DESCRIBED IN SUBITEM A OF THIS ITEM; OR

3 6. HAS, OTHER THAN BY CONSENT, LOST PARENTAL RIGHTS
4 TO A SIBLING OF THE PROSPECTIVE ADOPTEE.

5 (2) IF A COURT FINDS THAT AN ACT OR CIRCUMSTANCE LISTED IN
6 PARAGRAPH (1)(III)3 OR 5 OF THIS SUBSECTION EXISTS, THE COURT SHALL MAKE A
7 SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, WHETHER RETURN OF THE
8 PROSPECTIVE ADOPTEE TO THE CUSTODY OF THE PARENT POSES AN
9 UNACCEPTABLE RISK TO THE PROSPECTIVE ADOPTEE'S SAFETY.

10 (3) IN RULING UNDER THIS SUBSECTION, A COURT SHALL GIVE
11 PRIMARY CONSIDERATION TO THE HEALTH AND SAFETY OF THE PROSPECTIVE
12 ADOPTEE IN DETERMINING THE PROSPECTIVE ADOPTEE'S BEST INTERESTS.

13 COMMITTEE NOTE: This section is derived from former FL § 5-312(a)
14 through (c).

15 In subsection (b)(1)(iii)5 of this section, references to crimes "against any
16 offspring" are substituted for the former references to "the child, the other
17 natural parent of the child, another child of the natural parent, or any
18 person who resides in the household with the natural parent".

19 Defined terms: "Crime of violence" § 5-101

20 "Parent" § 5-3B-01

21 "Prospective adoptee" § 5-3B-01

22 "State" § 5-101

23 "Support" § 1-101

24 5-3B-22. CUSTODY.

25 A COURT MAY NOT GRANT A PETITION UNDER § 5-3B-21 OF THIS SUBTITLE
26 SOLELY BECAUSE A PARENT:

27 (1) DOES NOT HAVE LEGAL CUSTODY OF A PROSPECTIVE ADOPTEE BY
28 REASON OF A DIVORCE OR LEGAL SEPARATION; OR

29 (2) HAS BEEN DEPRIVED OF CUSTODY OF A PROSPECTIVE ADOPTEE BY
30 AN ACT OF THE OTHER PARENT.

31 COMMITTEE NOTE: This section is derived from former FL § 5-312(d).

32 Defined terms: "Parent" § 5-3B-01

33 "Prospective adoptee" § 5-3B-01

1 5-3B-23. ACCOUNTING.

2 (A) SCOPE OF SECTION.

3 THIS SECTION DOES NOT APPLY TO AN ADOPTION BY THE SPOUSE OF THE
4 PROSPECTIVE ADOPTEE'S PARENT OR A RELATIVE OF THE PROSPECTIVE ADOPTEE.

5 (B) REQUIREMENT.

6 A COURT MAY NOT ENTER AN ORDER UNDER THIS SUBTITLE UNTIL THE
7 PETITIONER FILES WITH THE COURT AN ACCOUNTING OF ALL PAYMENTS AND
8 DISBURSEMENTS OF ANY ITEM OF VALUE MADE BY OR FOR THE PETITIONER IN
9 CONNECTION WITH THE ADOPTION.

10 COMMITTEE NOTE: This section is derived from former FL § 5-327(c) and
11 revised as a duty of a court.

12 Defined terms: "Parent" § 5-3B-01

13 "Prospective adoptee" § 5-3B-01

14 5-3B-24. EFFECTS OF ORDER FOR ADOPTION.

15 (A) DISTRIBUTION BY WILL.

16 THIS SUBSECTION DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PROVIDE
17 FOR DISTRIBUTION OF PROPERTY BY WILL.

18 (B) PARENT-CHILD RELATIONSHIP.

19 EXCEPT AS PROVIDED IN § 2-123 OF THE REAL PROPERTY ARTICLE, AFTER A
20 COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS SUBTITLE:

21 (1) THE ADOPTEE:

22 (I) IS THE OFFSPRING OF THE ADOPTIVE PARENT FOR ALL
23 INTENTS AND PURPOSES; AND

24 (II) IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF AND
25 IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE ADOPTIVE
26 PARENT;

27 (2) EACH OF THE ADOPTEE'S LIVING PARENTS IS:

28 (I) RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS TO
29 THE ADOPTEE; AND

30 (II) DIVESTED OF ALL PARENTAL RIGHTS AS TO THE ADOPTEE; AND

31 (3) THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF THE
32 RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

1 COMMITTEE NOTE: This section is derived from former FL § 5-308(a) and
2 (b), as it related to adoptions under this subtitle.

3 In subsection (b) of this section, the word "adoptee" is substituted for the
4 former references to the "individual adopted" for consistency and brevity.

5 In subsection (b)(1)(i) and (ii) of this section, the newly defined term
6 "adoptive parent" is substituted for the former references to a "petitioner"
7 for consistency.

8 The introductory exception in subsection (b) of this section, "[e]xcept as
9 provided in § 2-123 of the Real Property Article", is substituted for the
10 former exception "this section" i.e., former FL § 5-308 to reflect the
11 recodification of part of former § 5-308(d). The balance is covered by new
12 subsection (b)(3) of this section.

13 In subsection (b)(1)(ii) of this section, the reference to "offspring born" to
14 the adoptive parent is substituted for the former reference to "a child born
15 to the petitioner in wedlock" to avoid the misleading inference that
16 illegitimacy affects a right, privilege, or obligation of a biological offspring
17 or that the age of majority might affect an adoptee differently from a
18 biological offspring.

19 In subsection (b)(2) of this section, the former reference to a "natural"
20 parent is deleted to reflect that the duties and rights of nonbiological - i.e.,
21 adoptive - relatives are affected in the same manner as a biological
22 relative's. Accordingly, in subsection (b)(3) of this section, a reference to
23 "parental" relatives is substituted for the former reference to "natural"
24 relatives.

25 Defined terms: "Adoptive parent" § 5-101

26 "Parent" § 5-3B-01

27 5-3B-25. PETITION TO INVALIDATE.

28 IF A PETITION TO INVALIDATE AN ORDER UNDER THIS SUBTITLE ON THE BASIS
29 OF A JURISDICTIONAL OR PROCEDURAL DEFECT IS FILED MORE THAN 1 YEAR AFTER
30 ENTRY OF THE ORDER, A COURT SHALL DISMISS THE PETITION.

31 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
32 revised to require dismissal rather than barring receipt, as more consistent
33 with court practices.

1 5-3B-26. RESERVED.

2 5-3B-27. RESERVED.

3

PART III. ACCESS TO ADOPTION RECORDS.

4 5-3B-28. URGENTLY NEEDED MEDICAL INFORMATION.

5 (A) HEARING ON NEED.

6 IF, AFTER A HEARING ON PETITION OF AN ADOPTEE OR FORMER PARENT, A
7 COURT IS SATISFIED THAT THE ADOPTEE OR BLOOD RELATIVE OF THE ADOPTEE OR
8 FORMER PARENT URGENTLY NEEDS MEDICAL INFORMATION NOT IN COURT
9 RECORDS, THE COURT MAY APPOINT AN INTERMEDIARY TO TRY TO CONTACT THE
10 ADOPTEE OR A FORMER PARENT OF THE ADOPTEE FOR THE INFORMATION.

11 (B) ROLE OF INTERMEDIARY.

12 AN INTERMEDIARY APPOINTED UNDER THIS SECTION:

13 (1) ONLY MAY ADVISE AN ADOPTEE OR FORMER PARENT OF THE NEED
14 FOR MEDICAL INFORMATION; AND

15 (2) MAY NOT:

16 (I) REVEAL ANY IDENTIFYING INFORMATION ABOUT AN ADOPTEE
17 OR FORMER PARENT; OR

18 (II) TRY, IN ANY MANNER, TO ENCOURAGE OR DISCOURAGE
19 CONTACT BETWEEN AN ADOPTEE AND FORMER PARENT.

20 (C) REPORT TO COURT.

21 AN INTERMEDIARY APPOINTED UNDER THIS SECTION SHALL FILE WITH THE
22 APPOINTING COURT A CONFIDENTIAL WRITTEN REPORT ON THE INTERMEDIARY'S
23 EFFORTS TO CONTACT AN ADOPTEE OR FORMER PARENT.

24 (D) DISCLOSURE BY COURT.

25 WHEN A COURT RECEIVES A REPORT FROM AN INTERMEDIARY, THE COURT
26 MAY DISCLOSE TO THE ADOPTEE OR FORMER PARENT, WITHOUT REVEALING
27 IDENTIFYING INFORMATION ABOUT THE ADOPTEE OR ANY FORMER PARENT:

28 (1) WHETHER THE INTERMEDIARY ADVISED THE ADOPTEE OR A
29 FORMER PARENT ABOUT THE NEED FOR MEDICAL INFORMATION; AND

30 (2) MEDICAL INFORMATION THAT THE ADOPTEE OR A FORMER PARENT
31 PROVIDED.

32 (E) COMPENSATION.

1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY ORDER AN
2 ADOPTEE OR FORMER PARENT TO PAY A REASONABLE FEE FOR THE SERVICES OF AN
3 INTERMEDIARY UNDER THIS SECTION.

4 COMMITTEE NOTE: This section is derived from former FL § 5-329(c)
5 through (e) and revised to allow use of an intermediary on petition of a
6 former parent and to clarify that an intermediary is allowed to contact only
7 a former parent and not a spouse, child, or other family member of a
8 former parent.

9 Throughout this section, references to a "former" parent are substituted for
10 the former references to a "birth" parent, to recognize that, e.g., a former
11 parent, by adoption, may have information about an adoptee or biological
12 parent.

13 In subsection (a) of this section, the former reference to "evidence
14 presented at the hearing" is omitted as unnecessary in light of the rules
15 governing proceedings generally and as potentially overly narrow should a
16 court request memoranda or other submissions to which an opposing party
17 has an opportunity to respond.

18 Defined terms: "Identifying information" § 5-3B-01

19 "Parent" § 5-3B-01

20 5-3B-29. VITAL RECORDS.

21 (A) DEFINITIONS.

22 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "DIRECTOR" MEANS THE STATE DIRECTOR OF SOCIAL SERVICES.

25 (3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
26 HYGIENE.

27 (B) SCOPE OF SECTION.

28 THIS SECTION APPLIES ONLY TO AN ADOPTION IN WHICH A COURT ENTERS AN
29 ORDER FOR ADOPTION ON OR AFTER JANUARY 1, 2000.

30 (C) CONSTRUCTION OF SECTION.

31 THIS SECTION DOES NOT BAR:

32 (1) AN ADOPTEE OR BIOLOGICAL PARENT FROM APPLYING FOR SEARCH,
33 CONTACT, AND REUNION SERVICES UNDER SUBTITLE 4B OF THIS TITLE; OR

34 (2) THE DIRECTOR OR A CONFIDENTIAL INTERMEDIARY FROM
35 OBTAINING A COPY OF A RECORD UNDER § 5-4B-04(C) OR § 5-4B-06(B) OR (C) OF THIS
36 TITLE.

1 (D) APPLICATION FOR RECORD.

2 (1) AN ADOPTEE WHO IS AT LEAST 21 YEARS OLD MAY APPLY TO THE
3 SECRETARY FOR A COPY OF:

4 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

5 (II) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
6 CERTIFICATE OF BIRTH, IF ANY; AND

7 (III) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED
8 BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

9 (2) IF AN ADOPTEE IS AT LEAST 21 YEARS OLD, A BIOLOGICAL PARENT
10 OF THE ADOPTEE MAY APPLY TO THE SECRETARY FOR A COPY OF:

11 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

12 (II) THE NEW CERTIFICATE OF BIRTH, IF ANY, THAT WAS
13 SUBSTITUTED, UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE, FOR THE
14 ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

15 (III) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
16 CERTIFICATE OF BIRTH; AND

17 (IV) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED
18 BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

19 (3) EACH APPLICANT UNDER THIS SUBSECTION SHALL:

20 (I) PROVIDE ALL PROOF OF IDENTITY AND OTHER RELEVANT
21 INFORMATION THAT THE SECRETARY REQUIRES; AND

22 (II) PAY THE FEE REQUIRED UNDER TITLE 4, SUBTITLE 2 OF THE
23 HEALTH - GENERAL ARTICLE FOR A COPY OF A RECORD.

24 (E) DISCLOSURE VETO.

25 (1) A BIOLOGICAL PARENT MAY:

26 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
27 DISCLOSURE OF INFORMATION ABOUT THAT PARENT IN A RECORD ACCESSIBLE
28 UNDER THIS SECTION;

29 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

30 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

31 (2) AN ADOPTEE 21 YEARS OLD MAY:

1 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
2 DISCLOSURE OF INFORMATION ABOUT THE ADOPTEE IN A RECORD ACCESSIBLE
3 UNDER THIS SECTION;

4 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

5 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

6 (3) IMMEDIATELY AFTER THE DIRECTOR RECEIVES A DISCLOSURE VETO
7 OR CANCELLATION UNDER THIS SUBSECTION, THE DIRECTOR SHALL FORWARD A
8 COPY TO THE SECRETARY.

9 (F) DUTIES OF SECRETARY.

10 (1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
11 SECTION.

12 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE
13 SECRETARY SHALL GIVE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF
14 THIS SECTION A COPY OF EACH RECORD THAT THE APPLICANT REQUESTED AND
15 THAT THE SECRETARY HAS ON FILE.

16 (3) WHENEVER A BIOLOGICAL PARENT APPLIES FOR A RECORD, THE
17 SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO:

18 (I) THE OTHER BIOLOGICAL PARENT, IF THAT PARENT HAS FILED
19 A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION; AND

20 (II) THE ADOPTEE AND EACH ADOPTIVE PARENT, IF THE ADOPTEE
21 HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

22 (4) WHENEVER AN ADOPTEE APPLIES FOR A RECORD, THE SECRETARY
23 SHALL REDACT FROM THE COPY ALL INFORMATION AS TO THE BIOLOGICAL PARENT,
24 IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS
25 SECTION.

26 (5) THE SECRETARY SHALL GIVE EACH APPLICANT UNDER THIS
27 SECTION NOTICE OF THE ADOPTION SEARCH, CONTACT, AND REUNION SERVICES
28 AVAILABLE UNDER THIS TITLE.

29 COMMITTEE NOTE: Subsection (a) of this section is new and added to allow
30 concise reference to the Director and Secretary.

31 Subsections (b) through (f) of this section are derived from former FL §§
32 5-3A-01 through 5-3A-07.

33 In subsection (e)(3) of this section, a duty to forward a cancellation is
34 added, for completeness.

35 Defined terms: "Adoptive parent" § 5-101

36 "Director" § 5-3B-29

1 "Parent" § 5-3B-01

2 "Secretary" § 5-3B-29

3 5-3B-30. RESERVED.

4 5-3B-31. RESERVED.

5 PART IV. PROHIBITED ACT.

6 5-3B-32. PROHIBITED PAYMENTS.

7 (A) PROHIBITED ACT.

8 EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON MAY NOT CHARGE OR
9 RECEIVE, FROM OR FOR A PARENT OR PROSPECTIVE ADOPTIVE PARENT, ANY
10 COMPENSATION FOR A SERVICE IN CONNECTION WITH:

11 (1) PLACEMENT OF AN INDIVIDUAL TO LIVE WITH A PREADOPTIVE
12 FAMILY; OR

13 (2) AN AGREEMENT FOR CUSTODY IN CONTEMPLATION OF ADOPTION.

14 (B) CONSTRUCTION OF SECTION.

15 THIS SECTION DOES NOT PROHIBIT PAYMENT, BY AN INTERESTED PERSON, OF
16 A REASONABLE AND CUSTOMARY CHARGE OR FEE FOR ADOPTION COUNSELING,
17 HOSPITAL, LEGAL, OR MEDICAL SERVICES.

18 (C) DUTY OF STATE'S ATTORNEY.

19 EACH STATE'S ATTORNEY SHALL ENFORCE THIS SECTION.

20 (D) PENALTIES.

21 A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A
22 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 OR
23 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR BOTH, FOR EACH OFFENSE.

24 COMMITTEE NOTE: This section is derived from former FL § 5-327(a), (b),
25 (d), and (e) and the substance of § 5-301(j), which defined "placement for
26 adoption".

27 In subsections (a) and (d) of this section, references to a "person" are
28 substituted for the former references to "an agency, institution, or
29 individual".

30 In subsection (a) of this section, the phrase "by law" is added to delineate
31 the scope of the exception.

32 Also in subsection (a) of this section, the reference to a prospective

1 adoptive "parent" is substituted for the former reference to the "individual
2 who is adopting the individual" and the prospective adoptive "family or
3 individual", for brevity and consistency to other references throughout this
4 subtitle.

5 In subsection (c) of this section, a duty to "enforce" is substituted for the
6 former duty to "prosecute any violation", as more consistent with
7 prosecutorial discretion.

8 In subsection (d) of this section, reference to a violation of "any provision"
9 is added to clarify that a prosecutor need not show violation of every
10 provision.

11 Defined terms: "Adoptive parent" § 5-3B-01

12 "Parent" § 5-3B-01

13 "Person" § 1-101

14 5-401.

15 (a) In this subtitle the following words have the meanings indicated.

16 (b) "ADMINISTRATION" MEANS THE SOCIAL SERVICES ADMINISTRATION OF
17 THE DEPARTMENT.

18 (C) "Eligible child" means a minor [child] as to whom:

19 (1) (I) guardianship [with the right to consent to adoption] has been
20 awarded to a child placement agency under Subtitle 3 of this title; [and] OR

21 (II) CONSENSUAL ADOPTION HAS BEEN ORDERED UNDER § 5-338
22 OF THIS TITLE; AND

23 (2) a determination has been made by a local department under § 5-403
24 of this subtitle that a subsidy is necessary to [assure] ENSURE the child's adoption
25 because of the child's special circumstances.

26 [(c) "Local department" means a local department of social services of a
27 county.]

28 (d) "Subsidy" means:

29 (1) a money payment;

30 (2) medical care;

31 (3) medical assistance; or

32 (4) special services.

1 5-407.

2 (c) The [Social Services] Administration [of the Department of Human
3 Resources] may reimburse the Department of Health and Mental Hygiene for the
4 cost of medical assistance and medical care directly or through a contract with the
5 Department [of Health and Mental Hygiene].

6 5-410.1.

7 (b) An adoptive parent is eligible for reimbursement of nonrecurring adoption
8 expenses, if the Department determines that:

9 (3) except where it would be against the best [interest] INTERESTS of
10 the child, previous adoption attempts have been made without assistance and were
11 unsuccessful.

12 (c) Application for nonrecurring adoption expenses shall be filed with the
13 Department:

14 (1) prior to the [final decree] ORDER; and

15 (d) (2) Except as provided in paragraph (3) of this subsection, the agreement
16 shall be signed by the adoptive parents and an agent of the Department prior to the
17 [final] adoption [decree] ORDER.

18 (3) The agreement is not required to be signed by the adoptive parents
19 and an agent of the Department prior to the [final] adoption [decree] ORDER if the
20 [final decree] ORDER:

21 (i) was entered between January 1, 1987 and July 1, 1990; or

22 (ii) was entered before January 1, 1987, but nonrecurring adoption
23 expenses were paid after January 1, 1987.

24 (4) ADOPTIVE PARENTS FILING FOR REIMBURSEMENT OF
25 NONRECURRING ADOPTION EXPENSES IN CASES DESCRIBED UNDER PARAGRAPH (3)
26 OF THIS SUBSECTION SHALL:

27 (I) ENTER INTO A WRITTEN AGREEMENT WITH THE DEPARTMENT;
28 AND

29 (II) FILE ALL CLAIMS NO LATER THAN DECEMBER 14, 1990.

30 (e) Reimbursement for nonrecurring adoption expenses is limited to a
31 maximum of \$2,000 for reasonable and necessary actual costs that are not
32 reimbursable from another source, including:

33 (1) adoption fees;

34 (2) court costs and reasonable attorney's fees;

- 1 (3) health examinations;
- 2 (4) transportation costs; and
- 3 (5) food and lodging costs incurred during preplacement visits.

4 (f) Except in cases described under subsection (d)(3) of this section, adoptive
5 parents shall file all claims for nonrecurring adoption expenses within 2 years [of]
6 AFTER the [final adoption decree] ORDER.

7 [(g) Adoptive parents filing for reimbursement of nonrecurring adoption
8 expenses in cases described under subsection (d)(3) of this section shall:

- 9 (1) enter into a written agreement with the Department; and
- 10 (2) file all claims no later than December 14, 1990.]

11 5-412.

12 The Director of the [Social Services] Administration [of the Department] shall
13 adopt [rules and] regulations to carry out the provisions of this subtitle.

14 5-4B-02.

15 (d) A [biological] parent who has had his or her parental rights terminated
16 under [§ 5-312 or § 5-313] subtitle 3 of this title may not apply to receive search,
17 contact, and reunion services under this subtitle.

18 5-4C-06.

19 (a) (1) To register with the registry, an individual shall submit a notarized
20 affidavit containing the following information:

21 (vii) if known, the name and address of the child placement agency
22 [or local department], if any, that placed the adoptee;

23 (ix) the name and address of the court that issued the adoption or
24 guardianship [decree] ORDER; and

25 5-4C-07.

26 (c) (1) In order to make a match or provide matching information, the
27 Administration may inquire into the records of a child placement agency[, local
28 department,] or court that issued an adoption or guardianship [decree] ORDER.

29 (2) The court that issued the adoption [decree] ORDER shall order that
30 the Administration have access to court records on receipt of a petition from the
31 Administration that states that review of the records is needed in order to make a
32 match or to provide matching information under this section.

1 5-504.

2 (a) Foster parents in this State have the following rights:

3 (2) with regard to the local department [of social services] case
4 planning, the right to:

5 (i) except for meetings covered by the attorney-client privilege or
6 meetings in which confidential information about the natural parents is discussed, be
7 notified of, and when applicable, be heard at scheduled meetings and staffings
8 concerning a child in order to actively participate, without superseding the rights of
9 the natural parents to participate and make appropriate decisions regarding the
10 child, in the case planning, administrative case reviews, interdisciplinary staffings,
11 and individual educational planning and mental health team meetings;

12 (ii) be informed of decisions made by the courts or a child welfare
13 agency concerning a child; and

14 (iii) provide input concerning the plan of services for a child and to
15 have that input given full consideration by the local department [of social services];
16 and

17 5-506.

18 (b) In addition to other [rules and] regulations adopted under this title, the
19 Department may adopt [rules and] regulations to carry out §§ 5-507, 5-508, 5-509,
20 and 5-509.1 of this subtitle, which relate to the licensing of child placement agencies,
21 child care homes, child care institutions, and residential educational facilities.

22 (c) (1) By [rule or] regulation, the Department may delegate authority to
23 [local departments and licensed] child placement agencies to issue licenses or
24 approve applicants for licenses under this subtitle.

25 (2) Any [rule or] regulation adopted by the Department under this
26 subsection shall provide for an appeal to an administrative appellate authority from a
27 decision of a [local department or licensed] child placement agency.

28 5-507.

29 (b) A license is not required:

30 (1) for a person to place a child with an individual related to the child by
31 blood or marriage within 4 degrees of consanguinity or affinity under the civil law
32 rule;

33 (2) except as provided in [subsection (c) of this section] § 5-3B-12 OF
34 THIS TITLE, for a parent or grandparent of a child to place the child directly, without
35 the intervention of any other person except the recipient of the child; or

1 (3) for a lawyer to prepare pleadings necessary to accomplish the
2 adoption of a child or to perform any other function associated with the normal
3 practice of law.

4 5-517.

5 A person authorized to make a placement who is aggrieved by a decision of a
6 [local department or a licensed] child placement agency that has a delegated
7 authority to issue or approve a license under this subtitle may appeal the decision to
8 the administrative appellate authority designated by [rule or] regulation.

9 5-525.

10 (d) (1) Unless a court orders that reasonable efforts are not required under §
11 3-812 of the Courts Article or [§ 5-313] § 5-323 of this title, reasonable efforts shall
12 be made to preserve and reunify families:

13 (i) prior to the placement of a child in an out-of-home placement,
14 to prevent or eliminate the need for removing the child from the child's home; and

15 (ii) to make it possible for a child to safely return to the child's
16 home.

17 (e) (1) In developing a permanency plan for a child in an out-of-home
18 placement, the local department [of social services] shall give primary consideration
19 to the best interests of the child. The local department shall consider the following
20 factors in determining the permanency plan that is in the best interests of the child:

21 (i) the child's ability to be safe and healthy in the home of the
22 child's parent;

23 (ii) the child's attachment and emotional ties to the child's natural
24 parents and siblings;

25 (iii) the child's emotional attachment to the child's current caregiver
26 and the caregiver's family;

27 (iv) the length of time the child has resided with the current
28 caregiver;

29 (v) the potential emotional, developmental, and educational harm
30 to the child if moved from the child's current placement; and

31 (vi) the potential harm to the child by remaining in State custody
32 for an excessive period of time.

33 (2) To the extent consistent with the best interests of the child in an
34 out-of-home placement, the local department shall consider the following
35 permanency plans, in descending order of priority:

1 (i) returning the child to the child's parent or guardian, unless the
2 LOCAL department is the guardian;

3 (ii) placing the child with relatives to whom adoption, CUSTODY
4 AND guardianship, or care and custody, in descending order of priority, are planned to
5 be granted;

6 (iii) adoption in the following descending order of priority:

7 1. by a current foster parent with whom the child has resided
8 continually for at least the 12 months prior to developing the permanency plan or for
9 a sufficient length of time to have established positive family ties; or

10 2. by another approved adoptive family; OR

11 (iv) ~~placing the child in~~ [a court approved permanent foster home
12 with a specific caregiver;

13 (v) an independent living arrangement; or

14 (vi) long-term foster care] ANOTHER PLANNED PERMANENT
15 LIVING ARRANGEMENT THAT:

16 1. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE CHILD,
17 INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY, PHYSICAL
18 PLACEMENT, AND SOCIALIZATION NEEDS; AND

19 2. INCLUDES GOALS THAT PROMOTE THE CONTINUITY OF
20 RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND SIGNIFICANT ROLE
21 IN THE CHILD'S LIFE.

22 (3) Subject to paragraphs (1) and (2) of this subsection and to the extent
23 consistent with the best interests of a child in an out-of-home placement, in
24 determining a permanency plan, the local department shall consider the following in
25 descending order of priority:

26 (i) placement of the child in the local jurisdiction where the child's
27 parent or guardian resides; or

28 (ii) if the local department finds, based on a compelling reason, that
29 placement of the child as described in item (i) of this paragraph is not in the best
30 interest of the child, placement of the child in another jurisdiction in the State after
31 considering:

32 1. the availability of resources to provide necessary services
33 to the child;

34 2. the accessibility to family treatment, if appropriate; and

35 3. the effect on the local school system.

1 5-525.1.

2 (b) (1) Except as provided in paragraph (3) of this subsection, a local
3 department to which a child is committed under § 5-525 of this subtitle shall file a
4 petition for termination of parental rights or join a termination of parental rights
5 action that has been filed if:

6 (iii) a court finds that the [natural] parent has been convicted, IN
7 ANY STATE OR ANY COURT OF THE UNITED STATES, OF:

8 1. [in this State of] a crime of violence[, as defined in §
9 14-101 of the Criminal Law Article,] against

10 A. A MINOR OFFSPRING OF THE PARENT;

11 B. the child[, the other natural]; OR

12 C. ANOTHER parent of the child[, another child of the
13 natural parent, or any person who resides in the household of the natural parent]; OR

14 2. [in any state or in any court of the United States of a
15 crime that would be a crime of violence, as defined in § 14-101 of the Criminal Law
16 Article, if committed in this State against the child, the other natural parent of the
17 child, another child of the natural parent, or any person who resides in the household
18 of the natural parent;

19 3. of] aiding or abetting, conspiring, or soliciting to commit a
20 crime described in item 1 [or item 2] of this item.

21 5-551.

22 (a) The Department shall adopt [rules and] regulations that relate to the
23 registration of family day care homes.

24 (b) So far as practicable, the [rules and] regulations shall be uniform with the
25 rules and regulations adopted by other State agencies as those rules and regulations
26 relate to other types of day care.

27 (c) At a minimum, the [rules and] regulations OF THE DEPARTMENT shall
28 provide for:

29 (1) minimum standards of environmental health and safety, including
30 provisions for:

31 (i) adequate and safe physical surroundings;

32 (ii) the physical and mental health of day care providers; and

33 (iii) investigation of any criminal record of a day care provider;

1 (2) a thorough evaluation of each prospective family day care home and
2 day care provider, to be completed before the Department accepts an initial
3 registration;

4 (3) an initial family day care registration that expires 2 years after its
5 effective date;

6 (4) a continuing family day care registration that:

7 (i) upon application by the day care provider that meets the
8 requirements set by the Department, is issued to the provider before the end of the
9 initial registration period; and

10 (ii) once issued, remains in effect until surrendered, suspended,
11 revoked, or replaced by conditional registration;

12 (5) reporting of any changed circumstances that relate to the
13 requirements, by the day care provider, at the time the change occurs;

14 (6) an orientation to be provided to prospective day care providers by the
15 Department before initial registration;

16 (7) announced inspection by the Department of each registered family
17 day care home prior to issuance of an initial registration and at least once every 2
18 years thereafter to determine whether applicable requirements, including
19 [record-keeping] RECORD KEEPING requirements, are being met;

20 (8) unannounced inspection by the Department of each registered family
21 day care home at least once during each 12-month period that an initial or continuing
22 registration is in effect to determine whether safe and appropriate child care is being
23 provided;

24 (9) procedures to be followed by the Department in response to a
25 complaint about a family day care home;

26 (10) a requirement that a person who advertises a family day care home
27 or family day care service shall:

28 (i) indicate in the advertisement that the family day care home is
29 registered; and

30 (ii) display in the advertisement the registration number issued to
31 the family day care home or family day care service by the Department; and

32 (11) a requirement that each registered day care provider shall hold a
33 current certificate indicating successful completion of approved:

34 (i) basic first aid training through the American Red Cross or
35 through a program with equivalent standards; and

1 (ii) cardiopulmonary resuscitation (CPR) training through the
2 American Heart Association or through a program with equivalent standards
3 appropriate for the ages of children for whom care is provided in the family day care
4 home.

5 5-554.

6 (b) (2) Subject to paragraph (1) of this subsection, the Secretary of [the
7 Department] HUMAN RESOURCES or the Secretary's designee shall exercise the
8 authority granted to the Administration or the Director of the Administration.

9 5-554.1.

10 (a) The Secretary or other authorized official or employee of the Department
11 [of Human Resources] may apply to a judge of the District Court or a circuit court for
12 an administrative search warrant to enter any unregistered family day care home to
13 conduct any inspection required or authorized by law to determine compliance with
14 the provisions of this subtitle relating to family day care homes.

15 (c) A judge of a District Court or circuit court in the jurisdiction in which the
16 unregistered family day care home is located may issue an administrative search
17 warrant on finding that:

18 (1) the Department has reasonably sought and been denied access to an
19 unregistered family day care home for the purpose of making an inspection;

20 (3) the official or employee of the Department is authorized or required
21 by law to make an inspection of the unregistered family day care home for which the
22 warrant is sought; and

23 (4) THE DEPARTMENT HAS SHOWN probable cause for the issuance of the
24 warrant [has been demonstrated by the Department] by specific evidence:

25 (i) of an existing violation of § 5-552 of this subtitle; and

26 (ii) that the health, safety, and welfare of the children in the
27 unregistered family day care home are substantially threatened due to conditions in
28 the family day care home.

29 5-559.2.

30 (a) The Secretary of [the Department] HUMAN RESOURCES may delegate the
31 authority to approve direct grants to any board [which] THAT exists or may be
32 created within the Department.

33 5-561.

34 (c) The following individuals shall obtain a criminal history records check
35 under this Part VI of this subtitle:

1 (1) an individual who is seeking to adopt a child through a [local
2 department of social services or licensed] child placement agency;

3 (2) an adult relative with whom a child, committed to a local department
4 [of social services], is placed by the local department [of social services];

5 (3) any adult known by a local department [of social services] to be
6 residing in [a]:

7 (i) A family day care home required to be registered under [Title 5
8 of] this [article] TITLE;

9 (ii) A home of an adult relative of a child with whom the child,
10 committed to a local department [of social services], is placed by the local department
11 [of social services];

12 (iii) A foster care home or child care home required to be approved
13 under [Title 5 of] this [article] TITLE; or

14 (iv) A home of an individual seeking to adopt a child through a
15 [local department of social services or a licensed] child placement agency; and

16 (4) if requested by a local department [of social services]:

17 (i) a parent or guardian of a child who is committed to the local
18 department and is or has been placed in an out-of-home placement within the past
19 year; and

20 (ii) any adult known by the local department to be residing in the
21 home of the parent or guardian.

22 (e) A local department [of social services] may require a volunteer of that
23 department who works with children to obtain a criminal history records check under
24 this Part VI of this subtitle.

25 (i) (2) The local department [of social services] shall reimburse:

26 (i) an adult residing in a foster care home for the costs borne by the
27 individual under subsection (h) of this section; and

28 (ii) an individual described in subsection (c)(4)(ii) of this section for
29 the costs borne by the individual under subsection (h) of this section.

30 5-562.

31 (a) (3) Within 5 days after a LOCAL DEPARTMENT PLACES A child who is
32 committed to [a] THE local department [of social services is placed by the local
33 department of social services] with an adult relative, an individual identified in §
34 5-561(c) or (e) of this subtitle shall apply to the Department for a printed statement.

1 5-563.

2 (b) (3) The Department or its designee shall mail an acknowledged receipt of
3 the application with a sworn statement or affirmation from an individual identified
4 in § 5-561(c), (d), (e), or (f) of this subtitle to the appropriate [local department of
5 social services,] CHILD PLACEMENT OR registering agency[, licensed child placement
6 agency,] or facility.

7 5-564.

8 (a) (2) The Department shall adopt regulations requiring:

9 (iii) [local departments of social services and licensed] child
10 placement agencies that place a child as described in § 5-561(c) of this subtitle to
11 verify periodically the continuing participation or presence of individuals identified in
12 § 5-561(c) of this subtitle.

13 (d) (4) Upon completion of the criminal history records check of an
14 individual identified in § 5-561(c), (d), (e), or (f) of this subtitle, the Department shall
15 submit the printed statement to the appropriate [local department of social services,]
16 CHILD PLACEMENT OR registering agency[, or licensed placement agency].

17 5-567.

18 The following GOVERNMENTAL UNITS OR persons [or agencies] shall have the
19 immunity from civil or criminal liability described under § 5-619 of the Courts [and
20 Judicial Proceedings] Article in connection with a criminal history records check
21 under this Part VI of this subtitle:

22 (1) an employer; AND

23 (2) a State or local agency[; and

24 (3)] , INCLUDING a local department [of social services].

25 5-570.

26 (d) "License" means a license issued by the Department [of Human
27 Resources] to operate a child care center.

28 (g) "Letter of compliance" means a letter issued by the Department [of
29 Human Resources] to a religious organization that meets the requirements under §
30 5-573 of this subtitle.

31 5-574.

32 (b) This section does not apply to:

33 (3) a nonpublic nursery school operated by a tax exempt religious
34 organization that:

1 (ii) has been issued a letter of compliance by the Department [of
2 Human Resources]; or

3 5-580.1.

4 (a) The Secretary or other authorized official or employee of the Department
5 [of Human Resources] may apply to a judge of the District Court or a circuit court for
6 an administrative search warrant to enter any unlicensed child care center to conduct
7 any inspection required or authorized by law to determine compliance with the
8 provisions of this subtitle relating to child care centers.

9 (c) A judge of a District Court or circuit court in the jurisdiction in which the
10 unlicensed child care center is located may issue an administrative search warrant on
11 finding that:

12 (4) THE DEPARTMENT HAS SHOWN probable cause for the issuance of the
13 warrant [has been demonstrated by the Department] by specific evidence:

14 (i) of an existing violation of § 5-574(a) or § 5-582 of this subtitle;
15 and

16 (ii) that the health, safety, and welfare of the children in the child
17 care center are substantially threatened due to conditions in the child care center.

18 5-584.

19 (a) In addition to any other provision of law relating to child abuse and
20 neglect, a local department [of social services] that receives a report of suspected
21 child abuse under § 5-704 or § 5-705 of this title that concerns a child care center,
22 shall notify the Secretary's designee within 48 hours.

23 (c) The multidisciplinary team shall be chaired by the Secretary's designee
24 and shall include:

25 (1) representatives of the local department [of social services] and law
26 enforcement agency that are investigating the report under § 5-706 of this title;

27 5-587.

28 (b) Before the State acquires or constructs an office building that
29 accommodates 700 or more employees, the Department [of Human Resources] shall:

30 (1) survey the employees who will be assigned to the building regarding
31 the employees' child care needs;

32 (2) determine whether child care services for more than 29 children are
33 needed; and

34 (3) if sufficient need is demonstrated, determine how much space is
35 required and request that the Department of General Services designate the required

1 amount of space within the building or acquire the designated amount of space within
2 a nearby building for a child care center.

3 5-588.

4 (c) (2) If any deficiencies under paragraph (1)(ii) of this subsection are not
5 corrected within a reasonable time, the Department of General Services shall notify
6 the Department [of Human Resources], which will exact compliance in accordance
7 with the terms of the child care center contract.

8 (f) (1) After a child care center for children of State employees has been
9 established, the Department [of Human Resources] shall assess the child care needs
10 of the State employees using the center at least every 5 years.

11 5-593.

12 The Council shall:

13 (1) advise and counsel the Child Care Administration;

14 (2) review regulations proposed by State agencies regulating child care
15 [for the purpose of insuring] TO ENSURE coordination and consistency;

16 (3) review issues and problems relating to care of children and suggest
17 priorities for consideration by the Child Care Administration; and

18 (4) identify interdepartmental issues of importance to child care
19 providers and users that should be addressed by the Child Care Administration [of
20 the Department] and other State agencies.

21 5-594.1.

22 (b) To administer direct incentive grants to child care providers, the
23 Department may contract with OTHER State agencies and nonprofit organizations.

24 5-701.

25 (o) ["Local] EXCEPT AS PROVIDED IN §§ 5-705.1 AND 5-714 OF THIS SUBTITLE,
26 "LOCAL department" means the LOCAL department [of social services] that has
27 jurisdiction in the county:

28 (1) where the allegedly abused or neglected child lives; or

29 (2) if different, where the abuse or neglect is alleged to have taken place.

30 5-706.

31 (e) The local department, the appropriate law enforcement agencies, the
32 State's Attorney within each county and Baltimore City, the LOCAL department's
33 office responsible for child care regulation, and the local health officer[,] shall enter
34 into a written agreement that specifies standard operating procedures for the

1 investigation under subsections (b) and (c) of this section and prosecution of reported
2 cases of suspected abuse.

3 5-706.1.

4 (b) (4) (i) If a CINA [proceeding] CASE is pending concerning a child who
5 has been allegedly abused or neglected by the appellant or a child in the care, custody,
6 or household of the appellant, the Office of Administrative Hearings shall stay the
7 hearing until the CINA [proceeding] CASE is concluded.

8 (ii) After the conclusion of the CINA [proceeding] CASE, the Office
9 of Administrative Hearings shall vacate the stay and schedule further proceedings in
10 accordance with this section.

11 5-710.

12 (c) If a report has been made to the State's Attorney's office under § 5-706(i) of
13 this subtitle and the [State's Attorney's] office is not satisfied with the
14 recommendation of the local department, the [State's Attorney's] office may petition
15 [the] A JUVENILE court, at the time of the report by the representative, to remove the
16 child, if the State's Attorney concludes that the child is in serious physical danger and
17 that an emergency exists.

18 5-712.

19 (b) Any physician who is licensed or authorized to practice medicine in this
20 State shall examine or treat any child, with or without the consent of the child's
21 parent, guardian, or custodian, to determine the nature and extent of any abuse or
22 neglect to the child if the child is brought to the physician:

23 (1) in accordance with a JUVENILE court order;

24 5-713.

25 (a) If a child is removed from a household under this subtitle or by a
26 JUVENILE court order, on return of the child to the household by the local department
27 or by the action or order of any court, State's Attorney's office, or other law
28 enforcement agency, the local department shall establish proper supervision and
29 monitoring of the household on a regularly scheduled basis of at least once a month
30 for at least 3 months.

31 5-714.

32 (b) (1) [The respective] EACH local [departments throughout this State]
33 DEPARTMENT shall provide the information for a central registry.

34 (c) The information in a central registry shall be at the disposal of:

35 (1) the protective services staff of the [Social Services] Administration;

1 5-1102.

2 (a) All proposals for funding received under this subtitle designed to address
3 the prevention of child physical or sexual abuse shall be reviewed by a selection
4 committee composed of the following members:

5 (1) 2 persons designated by the Secretary of [the Department of]
6 Human Resources, of which 1 person shall have prior experience in local community
7 child abuse prevention programs;

8 (c) The Department [of Human Resources] shall administer the child abuse
9 prevention grant program created under this subtitle and shall compile appropriate
10 information regarding the awarding and use of grants received under this section.

11 5-1202.

12 (a) On or before December 1, 2000, the Secretary of Human Resources and the
13 Secretary of Health and Mental Hygiene shall, after consultation with a broad range
14 of child welfare professionals, substance abuse experts, judges, attorneys, managed
15 care organizations, health care providers, local departments, local health
16 departments, and child advocates, develop a statewide protocol for integrating child
17 welfare and substance abuse treatment services that includes at a minimum the
18 following:

19 (6) specifying the circumstances under which a local department shall
20 include in its petition for a child in need of assistance [under Title 3, Subtitle 8 of the
21 Courts Article] a request that [the] A JUVENILE court order comprehensive drug and
22 alcohol assessment and testing;

23 5-1203.

24 At an adjudicatory hearing on a petition for a child in need of assistance [under
25 Title 3, Subtitle 8 of the Courts Article], if a local department requests substance
26 abuse assessment and testing for a parent, [the] A JUVENILE court shall order the
27 assessment and testing unless the JUVENILE court finds compelling reasons not to
28 order the assessment and testing and provides the reasons in writing.

29 6-103.

30 (a) [In each local department of social services, the Secretary of Human
31 Resources, with] WITH the advice of the Secretary of Health and Mental Hygiene,
32 THE SECRETARY OF HUMAN RESOURCES shall establish IN EACH LOCAL
33 DEPARTMENT a single parent services program to carry out the policies set forth in §
34 6-102 of this subtitle.

35 9-402.

36 (b) Upon conclusion by the law enforcement agency that any one of the
37 conditions specified in subsection (a) of this section exists, the law enforcement
38 agency shall immediately:

1 (4) notify the appropriate local department [of social services] and, to
2 the extent possible, obtain any information that may assist in the locating of the
3 missing child; and

4 10-114.

5 (a) The Secretary of Human Resources shall:

6 (3) delegate any responsibility for support enforcement to a local
7 department [of social services], for as long as:

8 (i) the local government asks that responsibility be delegated to
9 the local department;

10 (ii) the Secretary finds that the local department is capable of
11 carrying out the responsibility; and

12 (iii) a delegation of that responsibility is consistent with guidelines
13 of the Department of Human Resources;

14 14-101.

15 (j) ["Local] EXCEPT AS PROVIDED IN §§ 14-201, 14-402, AND 14-403 OF THIS
16 TITLE, "LOCAL department" means the LOCAL department [of social services] that
17 has jurisdiction in the county:

18 (1) where the vulnerable adult lives; or

19 (2) where the abuse is alleged to have taken place.

20 **Article - Real Property**

21 2-123. ADOPTEES.

22 (A) "INSTRUMENT" DEFINED.

23 IN THIS SECTION, "INSTRUMENT" MEANS A DEED, GRANT, OR OTHER WRITTEN
24 INSTRUMENT OTHER THAN A WILL AS DEFINED IN § 4-414 OF THE ESTATES AND
25 TRUSTS ARTICLE.

26 (B) CONSTRUCTION OF SECTION.

27 THIS SECTION DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PROVIDE FOR
28 DISTRIBUTION OF PROPERTY BY WILL.

29 (C) CONSTRUCTION OF INSTRUMENT.

30 (1) UNLESS AN INSTRUMENT EXECUTED ON OR AFTER JUNE 1, 1947,
31 CLEARLY INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
32 EQUIVALENT TERM IN THE INSTRUMENT INCLUDES AN ADOPTEE WHETHER THE

1 INSTRUMENT WAS EXECUTED BEFORE OR AFTER A COURT ENTERED AN ORDER FOR
2 ADOPTION.

3 (2) UNLESS AN INSTRUMENT EXECUTED ON OR BEFORE MAY 31, 1947,
4 CLEARLY INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
5 EQUIVALENT TERM IN THE INSTRUMENT INCLUDES AN ADOPTEE IF, ON OR AFTER
6 JUNE 1, 1947, A COURT ENTERED AN INTERLOCUTORY ORDER FOR ADOPTION OR, IF
7 NONE, A FINAL ORDER FOR ADOPTION.

8 COMMITTEE NOTE: This section is derived without substantive change from
9 former FL § 5-308(a) and (d), except as it related to wills.

10 The word "order" is substituted for the former, more archaic "decree".

11 As to wills, see new ET § 4-414.

12 SECTION 4. AND BE IT FURTHER ENACTED, That, except as expressly
13 provided, this Act does not apply to any case pending on ~~October 1, 2005~~ January 1,
14 2006, which case shall be governed by the law applicable as if this Act had not become
15 effective.

16 SECTION 5. AND BE IT FURTHER ENACTED, That the publisher of the
17 Annotated Code of Maryland, in consultation with and subject to the approval of the
18 Department of Legislative Services, shall correct, with no further action required by
19 the General Assembly, cross-references and terminology rendered incorrect by this
20 Act or by any other Act of the General Assembly of 2005 that affects provisions
21 enacted by this Act. The publisher shall adequately describe any such correction in an
22 editor's note following the section affected.

23 SECTION 6. AND BE IT FURTHER ENACTED, That the catchlines, captions,
24 and Committee Notes of the CINA Subcommittee of the Foster Care Court
25 Improvement Project contained in this Act are not law and may not be considered to
26 have been enacted as a part of this Act.

27 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect ~~October 1, 2005~~ January 1, 2006.