
By: **Chairman, Judicial Proceedings Committee (Maryland Judicial Conference) and Senator Giannetti**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

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
17 service of show cause orders; restating and altering certain provisions relating
18 to granting petitions for guardianship and adoption; revising certain
19 guardianship review procedures; repealing a certain religious exemption;
20 restating and altering certain time limits; requiring the dismissal of a certain
21 petition under certain circumstances; delineating procedures for private agency
22 guardianship and adoption; delineating the contents and effect of certain orders;
23 delineating the authority of courts during a guardianship; prohibiting a court
24 from entering a certain order until the petitioner files a certain accounting;
25 restating and revising certain provisions concerning review hearings;
26 establishing certain procedures for failed conditional placements before or
27 during a guardianship; revising certain provisions relating to the termination of
28 a guardianship; restating provisions relating to records; restating and altering
29 provisions relating to prohibited payments; specifying venue for purposes of
30 certain guardianship and adoption proceedings; providing for the construction of
31 a termination of parental rights as voluntary under certain circumstances;
32 altering provisions relating to the waiver of reasonable reunification efforts in a
33 child in need of assistance proceeding; altering provisions concerning
34 permanency planning to include certain planned permanent living

1 arrangements; requiring the Department of Human Resources to maintain a
2 website for certain postings; authorizing the Department to charge a certain fee
3 for certain postings; requiring certain documents in proceedings relating to
4 children in need of assistance to contain information about the website; altering
5 provisions relating to the duty of the Public Defender to provide legal
6 representation in certain guardianship and adoption cases; expanding the
7 categories of children whom volunteers assist under the Court-Appointed
8 Special Advocate Program; recodifying a provision relating to the construction of
9 certain terms in written instruments; defining certain terms; altering certain
10 definitions; making certain conforming changes; making stylistic changes; and
11 generally relating to termination of parental rights, guardianship, and adoption.

12 BY renumbering

13 Article - Family Law
14 Section 1-101(b), (c), (d), (f), and (g), respectively
15 to be Section 1-101(d), (e), (h), (j), and (k) , respectively
16 Annotated Code of Maryland
17 (2004 Replacement Volume)

18 BY repealing

19 Article - Family Law
20 Section 5-301 through 5-330 and the subtitle "Subtitle 3. Adoption and
21 Guardianship With the Right to Consent to Adoption"; 5-3A-01 through
22 5-3A-07 and the subtitle "Subtitle 3A. Access to Birth and Adoption
23 Records"; 5-410.1(g), 5-4B-01(c), 5-4C-01(f), 5-501(c) and (l), 5-507(c),
24 5-559(b), 5-586(b), 5-701(f), 5-705.1(a), 5-1201(d) and (f), and 6-101(b)
25 Annotated Code of Maryland
26 (2004 Replacement Volume)

27 BY repealing and reenacting, with amendments,

28 Article 27A - Public Defender
29 Section 4(b)(5) and (d)
30 Annotated Code of Maryland
31 (2003 Replacement Volume and 2004 Supplement)

32 BY adding to

33 Article 88A - Department of Human Resources
34 Section 18
35 Annotated Code of Maryland
36 (2003 Replacement Volume and 2004 Supplement)

37 BY repealing and reenacting, with amendments,

38 Article - Courts and Judicial Proceedings
39 Section 3-801(p), 3-802(a)(5), 3-810(a), 3-812(a)(2), (b), and (d), 3-820(c)(2),
40 3-822(d), 3-823(e)(1) and (i)(1), 3-830(b)(2), 5-106(r), and 6-203

1 Annotated Code of Maryland
2 (2002 Replacement Volume and 2004 Supplement)

3 BY adding to
4 Article - Courts and Judicial Proceedings
5 Section 3-812(f)
6 Annotated Code of Maryland
7 (2002 Replacement Volume and 2004 Supplement)

8 BY adding to
9 Article - Estates and Trusts
10 Section 4-414
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2004 Supplement)

13 BY adding to
14 Article - Family Law
15 Section 1-101(b), (c), (f), and (g); 5-301 through 5-362 to be under the new
16 subtitle "Subtitle 3. Adoption Without or After Guardianship by Local
17 Department"; 5-3A-01 through 5-3A-45 to be under the new subtitle
18 "Subtitle 3A. Private Agency Guardianship and Adoption"; 5-3B-01
19 through 5-3B-32 to be under the new subtitle "Subtitle 3B. Independent
20 Adoption"; and 5-410.1(d)(4)
21 Annotated Code of Maryland
22 (2004 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article - Family Law
25 Section 1-101(e), 4-402(a), 4-403(a) and (b)(1), 4-501(k), 5-101, 5-401,
26 5-407(c), 5-410.1(b)(3), (c)(1), (d)(2) and (3), and (f), 5-412, 5-4B-02(d),
27 5-4C-06(a)(1)(vii) and (ix), 5-4C-07(c), 5-504(a)(2), 5-506(b) and (c),
28 5-507(b), 5-517, 5-525(d)(1) and (e), 5-525.1(b)(1)(iii), 5-551, 5-554(b)(2),
29 5-554.1(a) and (c)(4), 5-559.2(a), 5-561(c), (e), and (i)(2), 5-562(a)(3),
30 5-563(b)(3), 5-564(a)(2)(iii) and (d)(4), 5-567, 5-570(d) and (g),
31 5-574(b)(3)(ii), 5-580.1(a) and (c)(4), 5-584(a) and (c)(1), 5-587(b),
32 5-588(c)(2) and (f)(1), 5-593, 5-594.1(b), 5-701(o), 5-706(e), 5-706.1(b)(4),
33 5-710(c), 5-712(b)(1), 5-713(a), 5-714(b)(1) and (c)(1), 5-1102(a)(1) and (c),
34 5-1202(a)(6), 5-1203, 6-103(a), 9-402(b)(4), 10-114(a)(3), and 14-101(j)
35 Annotated Code of Maryland
36 (2004 Replacement Volume)

37 BY repealing and reenacting, without amendments,
38 Article - Family Law
39 Section 5-410.1(e) and 5-554.1(c)(1) and (3)
40 Annotated Code of Maryland

1 (2003 Replacement Volume and 2004 Supplement)

2 BY adding to

3 Article - Real Property

4 Section 2-123

5 Annotated Code of Maryland

6 (2003 Replacement Volume and 2004 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That Section(s) 1-101(b), (c), (d), (f), and (g), respectively, of Article -

9 Family Law of the Annotated Code of Maryland be renumbered to be Section(s)

10 1-101(d), (e), (h), (j), and (k), respectively.

11 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-301 through

12 5-330 and the subtitle "Subtitle 3. Adoption and Guardianship With the Right to

13 Consent to Adoption"; 5-3A-01 through 5-3A-07 and the subtitle "Subtitle 3A. Access

14 to Birth and Adoption Records"; 5-4B-01(c), 5-4C-01(f), 5-501(c) and (l), 5-507(c),

15 5-559(b), 5-586(b), 5-701(f), 5-705.1(a), 5-1201(d) and (f), and 6-101(b) of Article -

16 Family Law of the Annotated Code of Maryland be repealed.

17 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland

18 read as follows:

19

Article 27A - Public Defender

20 4.

21 (b) Legal representation shall be provided indigent defendants or parties in

22 the following proceedings:

23 (5) [An involuntary termination of parental rights proceeding or a

24 hearing under § 5-319 of the Family Law Article, if the party is entitled to Public

25 Defender representation under § 5-323] AS TO A PARENT, A HEARING IN

26 CONNECTION WITH GUARDIANSHIP OR ADOPTION UNDER TITLE 5, SUBTITLE 3, PART

27 II OR PART III of the Family Law Article.

28 (d) Representation by the Office of the Public Defender[,] or [by] an attorney

29 appointed by the Office [of the Public Defender, shall]:

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

31 (I) INCLUDING, IN CRIMINAL PROCEEDINGS, CUSTODY,

32 interrogation, preliminary hearing, arraignment, trial, [a hearing in an involuntary

33 termination of parental rights proceeding, a hearing under § 5-319 of the Family Law

34 Article,] and appeal, if any[.];

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

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

3 1. A HEARING IN CONNECTION WITH A GUARDIANSHIP
4 CASE;

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

7 3. A HEARING IN CONNECTION WITH AN ADOPTION CASE;
8 AND

9 4. AN APPEAL; and [shall]

10 (2) SHALL continue until [the]:

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

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

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

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

21 **Article 88A - Department of Human Resources**

22 18.

23 THE DEPARTMENT OF HUMAN RESOURCES SHALL MAINTAIN A WEBSITE ON
24 WHICH TO POST NOTICES OF PETITIONS UNDER §§ 5-316(F)(3)(II), 5-3A-15(D)(3)(II), AND
25 5-3B-15(D)(3)(II) OF THE FAMILY LAW ARTICLE.

26 **Article - Courts and Judicial Proceedings**

27 3-801.

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

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

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

1 3-802.

2 (a) The purposes of this subtitle are:

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

6 3-810.

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

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

14 3-812.

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

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

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

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

25 (1) Subjected the child to:

26 (i) Chronic abuse;

27 (ii) Chronic and life-threatening neglect;

28 (iii) Sexual abuse; or

29 (iv) Torture;

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

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

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

UNOFFICIAL COPY OF SENATE BILL 710

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

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

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

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

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

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

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

19 3-820.

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

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

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

24 3-822.

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

30 3-823.

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

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

33 (i) Reunification with the parent or guardian;

34 (ii) Placement with a relative for:

- 1 1. Adoption; or
- 2 2. Custody and guardianship;
- 3 (iii) Adoption by a nonrelative;
- 4 (iv) Guardianship by a nonrelative; OR
- 5 (v) [Continuation in a specified placement on a permanent basis
- 6 because of the child's special needs or circumstances;
- 7 (vi) Continuation in placement for a specified period because of the
- 8 child's special needs or circumstances; or
- 9 (vii) Independent living] ANOTHER PLANNED PERMANENT LIVING
- 10 ARRANGEMENT THAT:

11 1. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE CHILD,

12 INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY, PHYSICAL

13 PLACEMENT, AND SOCIALIZATION NEEDS; AND

14 2. INCLUDES GOALS THAT PROMOTE THE CONTINUITY OF

15 RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND SIGNIFICANT ROLE

16 IN THE CHILD'S LIFE; and

17 (i) (1) In this subsection, "preadoptive parent" means an individual whom a

18 child placement agency, as defined in [§ 5-301] § 5-101 of the Family Law Article,

19 approves to adopt a child who has been placed in the individual's home for adoption

20 before the [final decree] ORDER of adoption.

21 3-830.

22 (b) (2) The purpose of the Program is to provide volunteers whose primary

23 purpose is to ensure [that children who are the subject of a CINA proceeding are

24 provided with] THE PROVISION OF appropriate service and case planning [that is in

25 their] CONSISTENT WITH THE best [interest] INTERESTS OF A CHILD WHO IS THE

26 SUBJECT OF:

27 (I) A CINA PROCEEDING; OR

28 (II) A GUARDIANSHIP PROCEEDING UNDER TITLE 5, SUBTITLE 3 OF

29 THE FAMILY LAW ARTICLE.

30 5-106.

31 (r) A prosecution for an offense [of unlawfully charging or receiving

32 compensation in connection with an adoption] under [§ 5-327] § 5-362, § 5-3A-45, OR

33 § 5-3B-32 of the Family Law Article AS TO UNLAWFULLY CHARGING OR RECEIVING

34 COMPENSATION IN CONNECTION WITH ADOPTION shall be instituted within 3 years

35 after the offense was committed.

1 6-203.

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

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

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

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

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

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

10 [(5)] (V) Waste.

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

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

15 (D) THE VENUE OF AN ACTION FOR GUARDIANSHIP UNDER TITLE 5, SUBTITLE
16 3 OF THE FAMILY LAW ARTICLE IS IN THE COUNTY WHERE THE COURT HAS
17 JURISDICTION OVER THE CHILD IN NEED OF ASSISTANCE CASE UNDER TITLE 3,
18 SUBTITLE 8 OF THIS ARTICLE.

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

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

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

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

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

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

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

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

4 **Article - Estates and Trusts**

5 4-414. ADOPTEES.

6 (A) "WILL" DEFINED.

7 IN THIS SECTION, "WILL" INCLUDES ANOTHER WRITTEN INSTRUMENT OF
8 SIMILAR IMPORT.

9 (B) CONSTRUCTION OF WILL.

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

14 (2) UNLESS A WILL EXECUTED ON OR BEFORE MAY 31, 1947, CLEARLY
15 INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
16 EQUIVALENT TERM IN THE WILL INCLUDES AN ADOPTEE IF, ON OR AFTER JUNE 1,
17 1947, A COURT ENTERED AN INTERLOCUTORY ORDER FOR ADOPTION OR, IF NONE, A
18 FINAL ORDER FOR ADOPTION.

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

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

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

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

26 **Article - Family Law**

27 1-101.

28 (B) CHILD IN NEED OF ASSISTANCE.

29 "CHILD IN NEED OF ASSISTANCE" MEANS AN INDIVIDUAL ADJUDICATED AS A
30 CHILD IN NEED OF ASSISTANCE UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
31 ARTICLE.

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

1 (C) CINA CASE.

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

4 COMMITTEE NOTE: This subsection is new and added to allow concise and
5 consistent reference to cases involving adjudication of children in need of
6 assistance without repetition of the cross-reference to the Courts Article
7 provisions.

8 (F) JUVENILE COURT.

9 "JUVENILE COURT" MEANS THE CIRCUIT COURT FOR A COUNTY SITTING AS A
10 JUVENILE COURT.

11 COMMITTEE NOTE: This subsection is new and added to allow concise
12 reference to juvenile courts. Accordingly, former FL § 5-701(f), which
13 defined "court" solely for purposes of FL Title 5, Subtitle 7, and former FL
14 § 5-1201(d), which incorporated the § 5-701(f) definition, are deleted as
15 unnecessary.

16 This definition also will apply to current FL §§ 1-201(a)(1) and (5) and (c),
17 5-525(a)(1)(ii), 5-525.2(a), 5-544(3), and 5-545(b), in which the term
18 "juvenile court" is used without definition.

19 Defined term: "County" § 1-101

20 (G) LOCAL DEPARTMENT.

21 "LOCAL DEPARTMENT" MEANS:

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

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

25 COMMITTEE NOTE: This subsection is new and added to allow concise
26 reference to local departments and their counterpart in Montgomery
27 County under current Art. 88A, § 13A of the Code. Accordingly, former FL
28 §§ 5-401(c), 5-4C-01(f), 5-501(l), 5-705.1(a), 5-1201(f), and 6-101(b),
29 which defined "local department" for specific parts of this article, are
30 deleted as unnecessary.

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

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

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

1 (2) the District of Columbia[; or

2 (3) the Commonwealth of Puerto Rico].

3 COMMITTEE NOTE: This subsection is derived from former FL § 1-101(e) and
4 revised to conform to the substance of definitions of "state" in other revised
5 articles of the Code. *See, e.g.*, CS § 1-101(n), IN § 1-101(mm), and PUC §
6 1-101(ff).

7 4-402.

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

11 (2) The program shall be available to:

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

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

17 4-403.

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

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

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

24 4-501.

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

27 (1) where the home is located; or

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

29 5-101. DEFINITIONS.

30 (A) IN GENERAL.

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

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

3 (B) ADOPTIVE PARENT.

4 "ADOPTIVE PARENT" MEANS AN INDIVIDUAL WHO COMPLETES ADOPTION OF
5 ANOTHER INDIVIDUAL.

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

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

13 (C) CHILD PLACEMENT AGENCY.

14 "CHILD PLACEMENT AGENCY" MEANS:

15 (1) A LOCAL DEPARTMENT; OR

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

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

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

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

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

31 Defined terms: "Department" § 5-101

32 "Local department" § 1-101

33 "State" § 1-101

34 (D) CRIME OF VIOLENCE.

35 "CRIME OF VIOLENCE":

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

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

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

9 Defined term: "State" § 1-101

10 (E) DEPARTMENT.

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

12 COMMITTEE NOTE: This subsection is derived from former FL § 5-101,
13 except the introductory phrase. Accordingly, former FL §§ 5-559(b) and
14 5-586(b), which defined "Department", are deleted.

15 (F) DISABILITY.

16 "DISABILITY" MEANS:

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

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

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

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

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

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

28 SUBTITLE 3. ADOPTION WITHOUT OR AFTER GUARDIANSHIP BY LOCAL
29 DEPARTMENT.

30 PART I. GENERAL PROVISIONS.

31 5-301. DEFINITIONS.

32 (A) IN GENERAL.

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

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

3 (B) CAREGIVER.

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

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

8 Defined terms: "Child" § 5-301

9 "Person" § 1-101

10 (C) CHILD.

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

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

20 Defined term: "Guardianship" § 5-301

21 (D) GUARDIANSHIP.

22 "GUARDIANSHIP" MEANS AN AWARD, UNDER THIS SUBTITLE, OF ANY POWER OF
23 A GUARDIAN.

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

27 (E) IDENTIFYING INFORMATION.

28 "IDENTIFYING INFORMATION" MEANS INFORMATION THAT REVEALS THE
29 IDENTITY OR LOCATION OF AN INDIVIDUAL.

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

33 (F) PARENT.

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

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

2 (II) IS THE MOTHER.

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

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

8 Defined terms: "Child" § 5-301

9 "Guardianship" § 5-301

10 "Includes" § 1-101

11 (G) PARTY.

12 "PARTY" MEANS:

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

14 (I) THE CHILD;

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

17 (III) THE LOCAL DEPARTMENT TO WHICH THE CHILD IS
18 COMMITTED;

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

20 (I) THE CHILD;

21 (II) THE CHILD'S PARENT; AND

22 (III) THE INDIVIDUAL SEEKING ADOPTION;

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

24 (I) THE CHILD; AND

25 (II) THE INDIVIDUAL SEEKING ADOPTION; AND

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

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

31 Defined terms: "Child" § 5-301

1 "CINA case" § 1-101

2 "Guardianship" § 5-301

3 "Local department" § 1-101

4 "Parent" § 5-301

5 "Person" § 1-101

6 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in new
7 § 5-301, definitions in §§ 1-101 and 5-101 of this article apply to this
8 subtitle.

9 5-302. SCOPE OF SUBTITLE.

10 (A) PROCEEDINGS.

11 THIS SUBTITLE APPLIES ONLY TO:

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

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

17 (3) ADOPTION OF AN INDIVIDUAL UNDER GUARDIANSHIP UNDER THIS
18 SUBTITLE.

19 (B) PRIOR FILINGS.

20 THIS SUBTITLE:

21 (1) DOES NOT APPLY TO A GUARDIANSHIP CASE FILED ON OR BEFORE
22 SEPTEMBER 30, 2005, UNTIL GUARDIANSHIP IS GRANTED; AND

23 (2) UNLESS OTHERWISE SPECIFIED, DOES NOT APPLY TO AN ADOPTION
24 CASE FILED ON OR BEFORE SEPTEMBER 30, 2005.

25 COMMITTEE NOTE: This section is new and added to make the scope of this
26 new subtitle clear. This addition is not intended to limit the access to
27 records in cases filed or postadoption contact agreements entered into on
28 or before October 1, 2005.

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

30 "Guardianship" § 5-301

31 "Local department" § 1-101

1 5-303. STATEMENT OF FINDINGS; PURPOSES.

2 (A) STATEMENT OF FINDINGS.

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

5 (B) PURPOSES.

6 THE PURPOSES OF THIS SUBTITLE ARE TO:

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

9 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
10 THEIR PARENTS;

11 (3) ENSURE ADOPTION ONLY BY INDIVIDUALS FIT FOR THE
12 RESPONSIBILITY;

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

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

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

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

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

22 In subsection (b)(1) of this section, reference to "timely" provision of
23 "permanent and safe homes ... consistent with [the children's] best
24 interests" is substituted for the former reference to "stable homes that
25 protect ... safety and health", to emphasize the need for prompt resolution
26 of a case in accordance with the "best interests" standard applicable under,
27 e.g., former FL §§ 5-311(b)(2), 5-313(a), (c), and (d)(1) and (3), 5-317(g)(1),
28 5-319(f)(1) and (2) and (g)(1), and 5-323(a)(2).

29 In subsection (b)(2) and (4) 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. Similarly, in subsection (b)(6) of this section, the word "former" is
33 substituted for "natural", to encompass all individuals who have at any
34 time previously been a "parent".

35 In subsection (b)(5) of this section, the word "prospective" is added to
36 modify "adoptive parents", to reflect that information is provided before

1 completion of an adoption.

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

3 "Child" § 5-301

4 "Parent" § 5-301

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

6 THIS SUBTITLE IS RELATED TO AND SHOULD BE READ IN RELATION TO
7 SUBTITLE 5 OF THIS TITLE.

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

9 No change is made.

10 5-305. FOREIGN ORDERS.

11 (A) "ORDER" DEFINED.

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

15 (B) ORDER OF ANOTHER STATE.

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

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

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

22 (C) OTHER FOREIGN ORDERS.

23 AS TO A JURISDICTION OTHER THAN A STATE:

24 (1) AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN
25 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
26 EFFECT AS AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS STATE;
27 AND

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

31 COMMITTEE NOTE: Subsection (a) of this section is new and added to cover
32 administrative or other nonjudicial orders or proceedings that, under the
33 laws of another jurisdiction, have the force and effect of a comparable

1 judicial order.

2 Subsections (b)(1) and (c)(1) of this section are derived from former FL §
3 5-326 but bifurcated to reflect that the full faith and credit clause is
4 applicable to "states" as provided in "the United States Constitution".
5 Accordingly, in subsections (b) and (c) of this section, respectively, the
6 defined term "state" and the reference to a "jurisdiction other than a state"
7 are substituted for the former term "jurisdiction". Subsections (b)(1) and
8 (c)(1) are revised to cover orders for "guardianship", as well.

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

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

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

16 Defined terms: "Guardianship" § 5-301

17 "Includes" § 1-101

18 "Including" § 1-101

19 "Order" § 5-305

20 "State" § 1-101

21 5-306. PATERNITY.

22 (A) PRESUMPTION.

23 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
24 FATHER IF:

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

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

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

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

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

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

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

5 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

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

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

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

14 Subsection (a)(7) of this section is new and added to reflect the increasing
15 reliance on the accuracy of genetic testing.

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

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

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

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

34 Defined terms: "Child" § 5-301

35 "Juvenile court" § 1-101

36 "Party" § 5-301

1 5-307. APPOINTED COUNSEL.

2 (A) PARENT.

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

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

9 (II) WHEN A PETITION FOR GUARDIANSHIP OR ADOPTION IS FILED,
10 IS A MINOR.

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

14 (B) CHILD.

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

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

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

24 (II) IF THE ATTORNEY WHO CURRENTLY REPRESENTS THE CHILD
25 IS NOT UNDER CONTRACT WITH THE DEPARTMENT, SHALL STRIKE THE APPEARANCE
26 OF THAT ATTORNEY.

27 (C) DUAL REPRESENTATION.

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

31 (D) COMPENSATION.

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

34 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former
35 FL §§ 5-301(h) and 5-323 (a)(1)(ii) and (iii) and revised to apply only to
36 guardianship or adoption before termination of parental rights. Subsection

- 1 (a)(1) also is broadened by omitting the former word "natural", as the
2 parental rights of a nonbiological - i.e., adoptive - parent can be
3 terminated in the same manner as a biological parent's can, and by timing
4 parental minority from the filing of the petition rather than the time to
5 give consent.
- 6 Subsections (a)(2) and (b)(2) of this section are derived from former FL §
7 5-323 (c) and (a)(2), respectively.
- 8 Subsection (b)(1) of this section is derived from former FL § 5-323(a)(1)(i)
9 and (iv) and expanded to provide for representation of the subject of a
10 petition in every case, including adoption, without regard to consent or
11 disability.
- 12 Subsection (c) of this section is derived from former FL § 5-323(e) and
13 restated to cover guardianship cases and to allow dual representation only
14 if not inconsistent with the Maryland Rules of Professional Conduct.
- 15 Subsection (d) of this section is derived from the first sentence of former
16 FL § 5-323(d).
- 17 In subsection (a)(1) of this section, the reference to "Article 27A, § 4" is
18 substituted for former FL § 5-323(b), which enumerated specific hearings
19 without reference to appeals, to ensure that the substantive provisions
20 remain consistent in the event of future amendment. Art. 27A, § 4
21 provides, in relevant part, for representation of an indigent parent in
22 connection with a case under Part II or III this subtitle, extending to a
23 hearing in connection with a guardianship case, a hearing under new §
24 5-326 for which the parent has not waived the right to notice, a hearing in
25 connection with an adoption case under Part III of this subtitle, and an
26 appeal and, unless the Public Defender or court relieves an assigned
27 attorney, continuing until final disposition of the cause.
- 28 In subsection (a)(1)(i) of this section, the reference to "effectively
29 participating" is substituted for the former reference to "consenting and
30 effectively participating", to conform to former FL § 5-323(c) - subsection
31 (a)(2) of this section - which, by reference to "consenting and otherwise
32 effectively participating", made clear that consent is part of effective
33 participation.
- 34 In subsection (a)(2) of this section, the newly defined term "parent" is
35 substituted for the former references to an "individual whose consent is
36 required" and "individual", for brevity and consistency with subsection
37 (a)(1) of this section. The introductory language of subsection (b)(1) of this
38 section, "[i]n accordance with paragraph (2)", is substituted for the former
39 language "subject to paragraph (2)" and the former disclaimer "unless the
40 public defender is required to provide representation" is omitted, as
41 children are represented by the Department's contractor.
- 42 In subsection (b)(2) of this section, the former limitation "[i]n any action in

1 which payment for the services of a court-appointed attorney for a child is
2 the responsibility of the local department of social services" is omitted from
3 this subtitle as unnecessary, as local departments are responsible for all
4 CINA.

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

6 Defined terms: "Child" § 5-301

7 "CINA case" § 1-101

8 "Department" § 5-101

9 "Disability" § 5-101

10 "Guardianship" § 5-301

11 "Juvenile court" § 1-101

12 "Parent" § 5-301

13 "Party" § 5-301

14 5-308. AGREEMENT FOR POSTADOPTION CONTACT.

15 (A) AUTHORIZED.

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

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

20 (II) THE ADOPTEE OR ADOPTIVE PARENT.

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

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

25 (II) THE ADOPTEE OR ADOPTIVE PARENT.

26 (B) CONSTRUCTION OF AGREEMENT.

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

29 (C) DISSEMINATION; REDACTION.

30 AN INDIVIDUAL WHO PREPARES AN AGREEMENT DESCRIBED IN SUBSECTION
31 (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 OR IN A CINA CASE PENDING AS
3 TO THE PROSPECTIVE ADOPTEE; AND

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

6 (D) EFFECT OF NONCOMPLIANCE.

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

10 (E) MEDIATION.

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

13 (F) ENFORCEMENT.

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

18 (2) IF A PARTY MOVES IN JUVENILE COURT OR ANOTHER COURT OF
19 COMPETENT JURISDICTION TO MODIFY A WRITTEN AGREEMENT MADE IN
20 ACCORDANCE WITH THIS SECTION AND SATISFIES THE COURT THAT MODIFICATION
21 IS JUSTIFIED BECAUSE AN EXCEPTIONAL CIRCUMSTANCE HAS ARISEN AND THE
22 COURT FINDS MODIFICATION TO BE IN AN ADOPTEE'S BEST INTERESTS, THE COURT
23 MAY MODIFY THE AGREEMENT.

24 COMMITTEE NOTE: This section is new and added to create a formal
25 procedure for postadoption visits or other contact. This section is
26 applicable to cases filed on or before September 30, 2005 but is not
27 intended to preclude other agreements.

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

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

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

33 "CINA case" § 1-101

34 "Guardianship" § 5-301

35 "Identifying information" § 5-301

36 "Juvenile court" § 1-101

1 "Parent" § 5-301

2 "Party" § 5-301

3 5-309. ASSESSMENT OF COSTS.

4 A JUVENILE COURT MAY ASSIGN COUNSEL FEES AND COSTS AMONG THE
5 PARTIES TO A CASE AS THE JUVENILE COURT CONSIDERS APPROPRIATE AND THE
6 PARTIES' ECONOMIC SITUATIONS ALLOW.

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

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

12 "Party" § 5-301

13 5-310. APPEAL.

14 A PARTY TO A CASE UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF
15 SPECIAL APPEALS:

16 (1) IN AN INTERLOCUTORY APPEAL, FROM A DENIAL OF THE RIGHT TO
17 PARTICIPATE IN A GUARDIANSHIP CASE BEFORE ENTRY OF AN ORDER FOR
18 GUARDIANSHIP;

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

21 (3) FROM A FINAL ORDER.

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

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

28 Defined terms: "Guardianship" § 5-301

29 "Party" § 5-301

1 5-311. RESERVED.

2 5-312. RESERVED.

3

PART II. GUARDIANSHIP.

4 5-313. PETITION.

5 (A) REQUIRED.

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

8 (B) PETITIONER.

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

12 (C) AGE LIMIT.

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

15 (D) CONTENTS.

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

17 (1) ALL WRITTEN CONSENTS FOR THE GUARDIANSHIP THAT THE
18 PETITIONER HAS;

19 (2) IF APPLICABLE:

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

23 (II) CERTIFICATION THAT THE GUARDIANSHIP OR
24 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS;
25 AND

26 (3) A NOTICE OF FILING THAT:

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

28 (II) IDENTIFIES EACH PERSON WHOSE CONSENT WAS FILED WITH
29 THE PETITION;

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

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

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

5 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
6 5-317(a) and revised to mandate, rather than allow, a "guardianship"
7 petition and, in conjunction with new § 5-302, to apply only to a child in
8 need of assistance in the custody of a local department, rather than the
9 former "child".

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

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

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

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

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

24 Defined terms: "Department" § 5-101

25 "Guardianship" § 5-301

26 "Identifying information" § 5-301

27 "Juvenile court" § 1-101

28 "Local department" § 1-101

29 "Parent" § 5-301

30 "Person" § 1-101

31 "State" § 1-101

32 5-314. PARENTAL ADDRESSES.

33 A CLERK OF A JUVENILE COURT SHALL KEEP A LISTING OF EACH ADDRESS
34 GIVEN TO THE JUVENILE COURT FOR A PARENT UNDER THIS PART II OF THIS
35 SUBTITLE.

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

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

5 "Parent" § 5-301

6 5-315. NOTICE OF FILING.

7 (A) REQUIREMENT.

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

11 (1) THE LOCAL DEPARTMENT;

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

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

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

17 (B) METHOD.

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

19 (C) PARENTAL ADDRESS.

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

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

26 Defined terms: "Child" § 5-301

27 "CINA case" § 1-101

28 "Guardianship" § 5-301

29 "Juvenile court" § 1-101

30 "Local department" § 1-101

31 "Parent" § 5-301

1 5-316. ORDER TO SHOW CAUSE.

2 (A) REQUIREMENT.

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

7 (B) SERVICE.

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

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

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

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

15 (C) METHOD.

16 SERVICE UNDER THIS SECTION SHALL BE:

17 (1) ON A PARENT, BY:

18 (I) PERSONAL SERVICE; OR

19 (II) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
20 REQUESTED; AND

21 (2) ON AN ATTORNEY, BY:

22 (I) PERSONAL SERVICE; OR

23 (II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

24 (D) PARENTAL ADDRESSES.

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

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

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

1 (III) THE LAST ADDRESS IN RECORDS OF A CHILD SUPPORT AGENCY;

2 AND

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

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

7 (E) REASONABLE EFFORTS TO LOCATE PARENT.

8 (1) IF A JUVENILE COURT NEVER NOTIFIED A PARENT OF THE
9 REQUIREMENTS OF § 3-822 OF THE COURTS ARTICLE AND A PETITIONER CANNOT
10 SERVE THE PARENT AT ANY OF THE ADDRESSES LISTED IN SUBSECTION (D) OF THIS
11 SECTION, THE PETITIONER SHALL MAKE A REASONABLE, GOOD FAITH EFFORT TO
12 IDENTIFY AN ADDRESS FOR THE PARENT AND SERVE THE PARENT AT THAT
13 ADDRESS.

14 (2) A JUVENILE COURT SHALL FIND THAT A PETITIONER HAS MET THE
15 REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION IF THE PETITIONER
16 SHOWS, BY AFFIDAVIT OR TESTIMONY, THAT THE PETITIONER MADE INQUIRIES
17 AFTER OR WITHIN THE 180 DAYS IMMEDIATELY PRECEDING THE FILING OF THE
18 PETITION FOR GUARDIANSHIP:

19 (I) WITH THE STATE MOTOR VEHICLE ADMINISTRATION;

20 (II) WITH THE DEPARTMENT;

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

23 (IV) WITH THE DETENTION CENTER OF THE COUNTY WHERE THE
24 PETITION IS FILED;

25 (V) WITH THE JUVENILE COURT;

26 (VI) IF THE LOCAL DEPARTMENT IS AWARE THAT THE PARENT HAS
27 RECEIVED BENEFITS FROM A PARTICULAR SOCIAL SERVICES ENTITY WITHIN THE
28 180 DAYS IMMEDIATELY PRECEDING THE FILING OF THE PETITION, WITH THAT
29 ENTITY;

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

33 (VIII) WITH THE CHILD'S CAREGIVER;

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

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

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

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

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

12 (F) PUBLICATION.

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

18 (2) NOTICE UNDER THIS SUBSECTION SHALL CONSIST OF
19 SUBSTANTIALLY THE FOLLOWING STATEMENT:

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

21 "YOU ARE HEREBY NOTIFIED THAT A GUARDIANSHIP CASE HAS BEEN FILED IN
22 THE CIRCUIT COURT FOR (COUNTY NAME), CASE NO. (NUMBER). ALL PERSONS WHO
23 BELIEVE THEMSELVES TO BE PARENTS OF A (MALE OR FEMALE) CHILD BORN ON
24 (DATE OF BIRTH) IN (CITY, STATE) TO (MOTHER'S AND FATHER'S NAMES AND DATES
25 OF BIRTH) SHALL FILE A WRITTEN RESPONSE. A COPY OF THE PETITION MAY BE
26 OBTAINED FROM THE JUVENILE CLERK'S OFFICE AT (ADDRESS) AND (TELEPHONE
27 NUMBER). IF YOU DO NOT FILE A WRITTEN OBJECTION BY (DEADLINE), YOU WILL
28 HAVE AGREED TO THE PERMANENT LOSS OF YOUR PARENTAL RIGHTS TO THIS
29 CHILD."

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

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

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

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

- 1 Subsection (b) of this section is derived from former FL § 5-322(a)(3) and,
2 as it related to guardianship, (1)(i) and (ii)2 and the introductory language
3 of (b), and revised to reflect that a petitioner's duty begins "[o]n issuance"
4 of a show cause order by a court and to require service on a parent's last
5 attorney of record.
- 6 Subsection (c) of this section is derived from the reference to "certified mail
7 or private process" in the introductory language of former FL § 5-322(b),
8 and revised to clarify that, when certified mail is used, as to a parent,
9 "restricted delivery, return receipt requested" and, as to an attorney,
10 "return receipt requested" are required and to delete the inconsistent
11 reference to "both certified mail and private process", in former FL §
12 5-322(c)(2).
- 13 Subsection (d)(1)(i) and (ii) of this section is derived from former FL §
14 5-322(b)(1) and (2)(i).
- 15 Subsection (d)(1)(iii) and (iv) of this section is new and added to encompass
16 other common sources of current address.
- 17 Subsection (d)(2) of this section is new and added to state conditions under
18 which service need not be attempted.
- 19 Subsection (e)(1) of this section is derived from former FL § 5-322(b)(2)(ii)
20 and revised to state expressly that a petitioner must make reasonable
21 efforts to locate and serve a parent but only if service is not otherwise
22 effected and the parent was not notified at any time, not just during the
23 CINA hearing, of the duty to keep a current address on file with a court.
- 24 Subsection (e)(2)(i), (iii) through (vii), and (ix) through (xi), (3), and (4) of
25 this section is derived from former FL § 5-322(e)(1)(i) and (iii) through
26 (viii).
- 27 Subsection (e)(2)(ii) of this section is substituted for former FL §
28 5-322(e)(1)(ii), which referred to a local department.
- 29 Subsection (e)(2)(viii) of this section is new and added for completeness.
- 30 Subsection (f)(1) and (3)(i) of this section is derived from former FL §
31 5-322(c)(2) and (3).
- 32 Subsection (f)(2) of this section is new and added to give a clerk a statutory
33 form that will afford adequate notice.
- 34 Subsection (f)(3)(ii) of this section is new and added to afford an additional
35 means of notice by publication on a website.
- 36 In subsections (b)(1), (d)(1), and (e)(1) of this section, the former word
37 "natural" is omitted, to reflect that the parental rights of a nonbiological -
38 i.e., adoptive - parent can be terminated in the same manner as a

1 biological parent's can.

2 In subsection (b)(1) of this section, the reference to a "paren[t] who has not
3 consented" is substituted, for brevity, for the reference, in former FL §
4 5-322(a)(1)(i), to the "person whose consent is required" and for former FL
5 § 5-322(a)(2), which exempted persons having consented already.

6 Also in subsection (b)(1) of this section, the former limitation as to "a
7 petition ... filed after ... the child has been adjudicated to be a child in need
8 of assistance" is omitted, and references to a "child" and the "CINA case"
9 are substituted for the former references to a "minor child" and "juvenile
10 proceeding", to conform to the revised scope of this subtitle. The similar
11 limitation and the former language "[f]or a petition filed by a local
12 department of social services" also are omitted in subsections (e)(1) and
13 (f)(1) of this section.

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

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

23 In subsection (d)(1)(i) and (ii) of this section, the references to "270 days"
24 are substituted for the former 6-month period, to extend the period and to
25 allow easier calculation of the period. Similarly, in the introductory
26 language of subsection (e)(2) of this section, reference to "180 days" is
27 substituted for the former 6-month period, while in subsection (e)(2)(vi)
28 and (vii), references to "180 days" are substituted for former 9-month
29 periods.

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

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

39 In subsection (f)(1) and the introductory clause of (e)(2) of this section, the
40 general references to "requirements" of referenced provisions are
41 substituted for the former references to "a reasonable, good faith effort ...
42 to identify the last known address of the parent" and "reasonable good

1 faith efforts to serve ... the parent at the addresses specified in ... this
2 section", for brevity.

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

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

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

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

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

20 Defined terms: "Caregiver" § 5-301

21 "Child" § 5-301

22 "CINA case" § 1-101

23 "County" § 1-101

24 "Department" § 5-101

25 "Guardianship" § 5-301

26 "Including" § 1-101

27 "Juvenile court" § 1-101

28 "Local department" § 1-101

29 "Parent" § 5-301

30 "Party" § 5-301

31 "Person" § 1-101

1 5-317. INVESTIGATIONS.

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

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

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

12 The reference to investigation by a "neutral governmental unit or neutral
13 person" is added to ensure the court is provided with impartial
14 information.

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

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

20 Defined terms: "Child" § 5-301

21 "Guardianship" § 5-301

22 "Juvenile court" § 1-101

23 "Person" § 1-101

24 5-318. HEARINGS ON GUARDIANSHIP PETITION.

25 (A) CONSENSUAL GUARDIANSHIP.

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

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

33 (I) THE PARTY PROMPTLY SHALL:

34 1. FILE NOTICE WITH THE JUVENILE COURT; AND

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

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

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

6 (B) NONCONSENSUAL GUARDIANSHIP.

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

10 (C) NOTICE OF HEARINGS.

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

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

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

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

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

21 The introductory clause of subsection (a)(1), "[i]n addition to ...", is
22 substituted for the former "[e]xcept as provided", to make clear that a
23 hearing under this subsection supplements mandated hearings.

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

28 Defined terms: "Guardianship" § 5-301

29 "Juvenile court" § 1-101

30 "Party" § 5-301

31 5-319. TIME LIMITS.

32 (A) MAXIMUM LIMITS.

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

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

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

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

5 (II) TRIAL ON THE MERITS.

6 (B) MINIMUM LIMIT.

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

9 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD;

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

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

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

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

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

20 Defined terms: "Child" § 5-301

21 "Guardianship" § 5-301

22 "Juvenile court" § 1-101

23 5-320. AUTHORITY TO GRANT GUARDIANSHIP.

24 (A) CONSENT AND ACQUIESCENCE OR BEST INTERESTS.

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

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

27 (II) THE LOCAL DEPARTMENT:

28 1. FILED THE PETITION; OR

29 2. DID NOT OBJECT TO ANOTHER PARTY FILING THE

30 PETITION; AND

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

2 A. IN WRITING;

3 B. KNOWINGLY AND VOLUNTARILY, ON THE RECORD
4 BEFORE THE JUVENILE COURT; OR

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

8 2. IF AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY
9 OF A STATE OR OTHER JURISDICTION HAS GRANTED A GOVERNMENTAL UNIT OR
10 PERSON OTHER THAN A PARENT THE POWER TO CONSENT TO ADOPTION, THE UNIT
11 OR PERSON CONSENTS; OR

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

16 (B) CONDITIONAL CONSENT OR ACQUIESCENCE.

17 A GOVERNMENTAL UNIT OR PERSON:

18 (1) MAY CONDITION CONSENT OR ACQUIESCENCE ON ADOPTION INTO A
19 SPECIFIC FAMILY THAT A LOCAL DEPARTMENT APPROVES FOR THE PLACEMENT;
20 BUT

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

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

26 Subsection (a)(1)(iii)1 of this section is derived from former FL §
27 5-317(c)(2), as it related to CINAs, and revised to delineate the methods by
28 which consent may be given in addition to failure to make timely objection.
29 Subsection (a)(1)(iii)1 is not meant to change the current meaning of
30 "deemed consent".

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

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

36 Subsection (b) of this section is new and added to provide expressly for

1 conditional consent or acquiescence in conjunction with new §§
2 5-318(a)(2)(iii) and 5-327, which state the effect of noncompliance. The
3 requirement for approval by a local department should not be construed to
4 require approval before entry of a guardianship order.

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

9 Defined terms: "Child" § 5-301

10 "Guardianship" § 5-301

11 "Juvenile court" § 1-101

12 "Local department" § 1-101

13 "Parent" § 5-301

14 "Party" § 5-301

15 "Person" § 1-101

16 "State" § 1-101

17 5-321. CONSENT.

18 (A) CONTENTS AND ATTACHMENTS.

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

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

22 (II) A HEARING UNDER THIS SUBTITLE.

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

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

26 (I) THE CONSENT IS GIVEN IN A LANGUAGE THAT THE PARTY
27 UNDERSTANDS;

28 (II) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH, THE
29 CONSENT:

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

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

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

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

5 2. THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER
6 § 5-359 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, PARENTS, AND
7 SIBLINGS UNDER SUBTITLE 4B OF THIS TITLE; AND

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

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

13 1. COUNSEL REVIEWED THE CONSENT WITH THE PARENT;
14 AND

15 2. THE PARENT CONSENTS KNOWINGLY AND VOLUNTARILY;
16 AND

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

20 (B) COPY.

21 (1) WHENEVER A LOCAL DEPARTMENT RECEIVES CONSENT TO
22 GUARDIANSHIP OF AN INDIVIDUAL BEFORE A GUARDIANSHIP PETITION IS FILED,
23 THE LOCAL DEPARTMENT PROMPTLY SHALL:

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

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

26 1. EACH LIVING PARENT OF THE INDIVIDUAL;

27 2. THE PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
28 CASE; AND

29 3. THE INDIVIDUAL'S LAST ATTORNEY OF RECORD IN THE
30 CINA CASE.

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

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

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

2 (C) REVOCATION PERIOD; WAIVER.

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

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

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

8 (2) CONSENT TO GUARDIANSHIP UNDER SUBSECTION (A)(2) OF THIS
9 SECTION IS IRREVOCABLE.

10 (D) INVALIDATION OF CONDITIONAL CONSENT OR ACQUIESCENCE.

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

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

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

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

22 Subsection (a)(3)(iii) of this section is derived from former FL § 5-314(a),
23 as it related to guardianship.

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

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

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

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

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

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

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

6 Defined terms: "Child" § 5-301

7 "CINA case" § 1-101

8 "Disability" § 5-101

9 "Guardianship" § 5-301

10 "Includes" § 1-101

11 "Including" § 1-101

12 "Juvenile court" § 1-101

13 "Local department" § 1-101

14 "Parent" § 5-301

15 "Party" § 5-301

16 "Person" § 1-101

17 5-322. GRANT OF GUARDIANSHIP - CONSENSUAL.

18 (A) AUTHORITY.

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

22 (B) NOTICE.

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

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

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

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

31 Defined terms: "Child" § 5-301

1 "Guardianship" § 5-301

2 "Juvenile court" § 1-101

3 "Party" § 5-301

4 5-323. GRANT OF GUARDIANSHIP - NONCONSENSUAL.

5 (A) "DRUG" DEFINED.

6 IN THIS SECTION, "DRUG" MEANS COCAINE, HEROIN, OR A DERIVATIVE OF
7 COCAINE OR HEROIN.

8 (B) AUTHORITY.

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

14 (C) EXEMPTION FROM CONSIDERATIONS.

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

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

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

23 (D) CONSIDERATIONS.

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

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

32 (II) THE EXTENT, NATURE, AND TIMELINESS OF SERVICES
33 OFFERED BY A LOCAL DEPARTMENT TO FACILITATE REUNION OF THE CHILD AND
34 PARENT; AND

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

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

7 (I) THE EXTENT TO WHICH THE PARENT HAS MAINTAINED
8 REGULAR CONTACT WITH:

9 1. THE CHILD;

10 2. THE LOCAL DEPARTMENT TO WHICH THE CHILD IS
11 COMMITTED; AND

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

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

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

18 (IV) WHETHER ADDITIONAL SERVICES WOULD BE LIKELY TO BRING
19 ABOUT A LASTING PARENTAL ADJUSTMENT SO THAT THE CHILD COULD BE
20 RETURNED TO THE PARENT WITHIN AN ASCERTAINABLE TIME NOT TO EXCEED 18
21 MONTHS FROM THE DATE OF PLACEMENT UNLESS THE JUVENILE COURT MAKES A
22 SPECIFIC FINDING THAT IT IS IN THE CHILD'S BEST INTERESTS TO EXTEND THE
23 TIME FOR A SPECIFIED PERIOD;

24 (3) WHETHER:

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

27 (II) 1. AS EVIDENCED BY AN APPROPRIATE TOXICOLOGY TEST
28 OF THE MOTHER OR CHILD:

29 A. ON ADMISSION TO A HOSPITAL FOR THE CHILD'S
30 DELIVERY, THE MOTHER WAS POSITIVE FOR A DRUG; OR

31 B. THE CHILD WAS BORN EXPOSED TO A DRUG; AND

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

36 (III) THE PARENT SUBJECTED THE CHILD TO:

- 1 1. CHRONIC ABUSE;
- 2 2. CHRONIC AND LIFE-THREATENING NEGLECT;
- 3 3. SEXUAL ABUSE; OR
- 4 4. TORTURE;

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

- 7 1. A CRIME OF VIOLENCE AGAINST:
 - 8 A. A MINOR OFFSPRING OF THE PARENT;
 - 9 B. THE CHILD; OR
 - 10 C. ANOTHER PARENT OF THE CHILD; OR
- 11 2. AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
12 COMMIT A CRIME DESCRIBED IN SUBITEM 1 OF THIS ITEM; AND

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

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

18 (II) THE CHILD'S ADJUSTMENT TO:

- 19 1. COMMUNITY;
- 20 2. HOME;
- 21 3. PLACEMENT; AND
- 22 4. SCHOOL;

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

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

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

28 (1) A JUVENILE COURT SHALL CONSIDER THE EVIDENCE UNDER
29 SUBSECTION (D)(3)(I) AND (II) OF THIS SECTION AS TO A CONTINUING OR SERIOUS
30 ACT OR CONDITION AND MAY WAIVE A LOCAL DEPARTMENT'S OBLIGATIONS FOR
31 SERVICES DESCRIBED IN SUBSECTION (D)(1) OF THIS SECTION IF, AFTER

1 APPROPRIATE EVALUATION OF EFFORTS MADE AND SERVICES OFFERED, THE
2 JUVENILE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT A WAIVER IS
3 IN THE CHILD'S BEST INTERESTS.

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

9 (3) IF A JUVENILE COURT WAIVES REUNIFICATION EFFORTS UNDER §
10 3-812(D) OF THE COURTS ARTICLE, THE JUVENILE COURT MAY NOT CONSIDER ANY
11 FACTOR UNDER SUBSECTION (D)(1) OF THIS SECTION.

12 (F) SPECIFIC FINDING REQUIRED.

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

18 (G) CONSTRUCTION AS VOLUNTARY.

19 IF A PARENT HAS CONSENTED TO GUARDIANSHIP IN ACCORDANCE WITH §
20 5-320(A)(1)(III)1 OF THIS SUBTITLE, THE LOSS OF PARENTAL RIGHTS SHALL BE
21 CONSIDERED VOLUNTARY.

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

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

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

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

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

- 1 In subsection (b) of this section, the phrase "after consideration of factors
2 as required in this section" is added to make note of the requirement under
3 subsection (d) of this section to consider certain factors unless exempted
4 under subsection (c) of this section.
- 5 Also in subsection (b) of this section, the phrase "over the child's objection"
6 is added to conform to new § 5-320(a)(1)(i).
- 7 Also in subsection (b) of this section, the former word "decree" is omitted.
- 8 Subsection (c) of this section is revised to obviate the need to consider
9 certain factors in instances of abandonment, based on the exception in "the
10 case of an abandoned child" in former FL § 5-313(c). Accordingly, the
11 introductory language of subsection (d) of this section, "[e]xcept as
12 provided in subsection (c) ...", is added.
- 13 Subsection (c)(2) of this section is revised to make the time limit for failure
14 to claim parentage run from adjudication rather than abandonment.
- 15 In subsection (c)(2) of this section, reference to "60 days" is substituted for
16 the former reference to "2 months", to allow easier calculation of the
17 period.
- 18 In subsections (d)(1) and (2)(i)2 and (e)(1) and (2) and the introductory
19 language to subsection (c) of this section, the newly defined term "local
20 department" is substituted for the former references to a "child placement
21 agency", "agency to which the child is committed", and "custodian", to
22 conform to the scope of this subtitle.
- 23 In the introductory language to subsection (d) of this section, the reference
24 to "ruling on a petition" is substituted for the former reference to
25 "determining whether it is in the best interests of the child to terminate a
26 natural parent's rights as to the child in any case", for brevity.
- 27 In subsection (d)(2)(i)1 of this section, the former reference to contact with
28 a child "under a plan to reunite" a parent and child and the former bar
29 against affording significance to an "incidental visit ... or contribution" are
30 omitted.
- 31 In subsection (d)(2)(i)3 of this section, the phrase "if feasible" is added, to
32 reflect that a caregiver may preclude contact.
- 33 Also in subsection (d)(2)(i)3 of this section, the newly defined word
34 "caregiver" is substituted for the former reference to a "custodian".
- 35 In subsection (d)(2)(ii) of this section, the words "substitute physical" are
36 deleted from, and the defined term "support" is substituted for
37 "maintenance", in the former reference to "substitute physical care and
38 maintenance".

1 In subsection (d)(2)(iv) of this section, reference to an extension of time by
2 a juvenile court is added, and the former bar against consideration of the
3 inducement afforded by a continued relationship is deleted.

4 In subsection (d)(3)(i) of this section, the word "minor" is substituted for
5 the former reference to "any child in the family", to make the referenced
6 abuse or neglect applicable to anyone under the age of 18 years regardless
7 of relationship to the CINA.

8 Also in subsection (d)(3)(i) of this section, reference to a determination of
9 the "seriousness" of the abuse or neglect is substituted for the former
10 reference to a determination as "continuing or serious", as more
11 appropriate in light of the gamut of potential abuse or neglect and the
12 requirements in former FL § 5-313(d)(3) - new subsection (e)(1) of this
13 section.

14 Subsection (d)(3)(ii)1 of this section is revised so that a "toxicology" test is
15 required to determine exposure, as well as status of the mother on
16 admission.

17 In subsection (d)(3)(ii)2 of this section, reference to "a qualified addictions
18 specialist ... or ... physician or psychologist" is added to ensure a parent is
19 held to a recommendation only of a qualified counselor. As initially enacted
20 by Chapters 367 and 368, Acts of 1997, the requirement would apply only
21 if \$1.7 million was appropriated to pay for recommended treatment for
22 indigent mothers. The Committee believes the availability of money should
23 determine the application of this requirement from year to year.

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

27 In subsection (d)(3)(iv)1 of this section, the more limited phrase "against a
28 minor offspring of the parent, the child, or another parent of the child" is
29 substituted for the former phrase "against the child, the other natural
30 parent of the child, another child of the natural parent, or any person who
31 resides in the household of the natural parent".

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

35 In subsection (e)(1) of this section, the narrower reference to "subsection
36 (d)(3)(i) and (ii)" is substituted for the former reference to "paragraph (1)(i)
37 through (iv)", to exclude the provision as to parental disability - now
38 revised in subsection (d)(2)(iii) of this section - and the requirement for a
39 determination as to repeated failure to clothe etc. a child, under FL §
40 5-313(d)(1)(iii), which is omitted as included in determinations as to CINA
41 status and financial ability.

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

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

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

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

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

14 Defined terms: "Caregiver" § 5-301

15 "Child" § 5-301

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

17 "Crime of violence" § 5-101

18 "Disability" § 5-101

19 "Drug" § 5-323

20 "Guardianship" § 5-301

21 "Includes" § 1-101

22 "Including" § 1-101

23 "Juvenile court" § 1-101

24 "Local department" § 1-101

25 "Parent" § 5-301

26 "State" § 1-101

27 "Support" § 1-101

28 5-324. CONTENTS OF ORDER.

29 (A) DENIAL OF GUARDIANSHIP.

30 IN AN ORDER DENYING GUARDIANSHIP OF A CHILD, A JUVENILE COURT SHALL
31 INCLUDE:

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

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

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

8 (B) GRANT OF GUARDIANSHIP.

9 (1) IN AN ORDER GRANTING GUARDIANSHIP OF A CHILD, A JUVENILE
10 COURT:

11 (I) SHALL INCLUDE A DIRECTIVE TERMINATING THE CHILD'S CINA
12 CASE;

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

14 1. MAY PLACE THE CHILD:

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

17 B. WITH A SPECIFIC INDIVIDUAL;

18 2. MAY DIRECT PROVISION OF SERVICES BY A LOCAL
19 DEPARTMENT TO:

20 A. THE CHILD; OR

21 B. THE CHILD'S CAREGIVER;

22 3. SUBJECT TO A LOCAL DEPARTMENT RETAINING LEGAL
23 GUARDIANSHIP, MAY AWARD TO A CAREGIVER LIMITED AUTHORITY TO MAKE AN
24 EMERGENCY OR ORDINARY DECISION AS TO THE CHILD'S CARE, EDUCATION,
25 MENTAL OR PHYSICAL HEALTH, OR WELFARE;

26 4. MAY ALLOW ACCESS TO A MEDICAL OR OTHER RECORD OF
27 THE CHILD;

28 5. MAY ALLOW VISITATION FOR THE CHILD WITH A SPECIFIC
29 INDIVIDUAL;

30 6. MAY APPOINT, OR CONTINUE THE APPOINTMENT OF, A
31 COURT-APPOINTED SPECIAL ADVOCATE FOR ANY PURPOSE SET FORTH UNDER §
32 3-830 OF THE COURTS ARTICLE; AND

1 7. SHALL DIRECT THE PROVISION OF ANY OTHER SERVICE
2 OR TAKING OF ANY OTHER ACTION AS TO THE CHILD'S EDUCATION, HEALTH, AND
3 WELFARE, INCLUDING:

4 A. FOR A CHILD WHO IS AT LEAST 16 YEARS OLD, SERVICES
5 NEEDED TO HELP THE CHILD'S TRANSITION FROM GUARDIANSHIP TO
6 INDEPENDENCE; OR

7 B. FOR A CHILD WITH A DISABILITY, SERVICES TO OBTAIN
8 ONGOING CARE, IF ANY, NEEDED AFTER THE GUARDIANSHIP CASE ENDS;

9 (III) IF ENTERED UNDER § 5-322 OF THIS SUBTITLE, SHALL STATE
10 EACH PARTY'S RESPONSE TO THE PETITION;

11 (IV) SHALL STATE A SPECIFIC FACTUAL FINDING ON WHETHER
12 REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE CHILD'S PERMANENCY
13 PLAN;

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

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

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

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

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

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

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

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

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

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

6 Defined terms: "Caregiver" § 5-301

7 "Child" § 5-301

8 "CINA case" § 1-101

9 "Disability" § 5-101

10 "Guardianship" § 5-301

11 "Includes" § 1-101

12 "Including" § 1-101

13 "Juvenile court" § 1-101

14 "Local department" § 1-101

15 "Parent" § 5-301

16 "Party" § 5-301

17 "Person" § 1-101

18 5-325. EFFECTS OF ORDER FOR GUARDIANSHIP.

19 (A) PARENT-CHILD RELATIONSHIP.

20 AN ORDER FOR GUARDIANSHIP OF AN INDIVIDUAL:

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

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

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

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

1 (B) GUARDIAN.

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

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

8 1. TO ADOPTION OF THE CHILD;

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

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

11 4. TO MARRIAGE OF THE CHILD; AND

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

14 (II) A CHILD'S GUARDIAN:

15 1. MAY HAVE THE CHILD ADMITTED TO AN INPATIENT
16 PSYCHIATRIC FACILITY IN ACCORDANCE WITH THE STANDARDS FOR EMERGENCY
17 COMMITMENT IN § 10-617 OF THE HEALTH - GENERAL ARTICLE FOR NOT MORE THAN
18 20 DAYS;

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

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

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

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

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

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

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

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

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

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

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

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

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

17 The introductory exception in subsection (a)(1) of this section, "[e]xcept as
18 otherwise provided ...", is substituted for the former exception "this
19 section" - i.e., former FL § 5-308 - to reflect the recodification of former §
20 5-308(d).

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

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

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

30 Defined terms: "Child" § 5-301

31 "CINA case" § 1-101

32 "Guardianship" § 5-301

33 "Includes" § 1-101

34 "Including" § 1-101

35 "Juvenile court" § 1-101

1 "Local department" § 1-101

2 "Parent" § 5-301

3 "Party" § 5-301

4 "Person" § 1-101

5 5-326. REVIEW HEARINGS.

6 (A) PERIODIC HEARING.

7 (1) A JUVENILE COURT SHALL HOLD:

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

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

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

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

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

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

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

24 1. THE LOCAL DEPARTMENT;

25 2. THE CHILD'S ATTORNEY; AND

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

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

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

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

3 (II) A CAREGIVER IS ENTITLED TO BE HEARD AT A GUARDIANSHIP
4 REVIEW HEARING.

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

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

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

13 2. SEND A COPY OF THE REPORT TO:

14 A. THE CHILD'S ATTORNEY; AND

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

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

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

20 (I) ADOPTION OF THE CHILD;

21 (II) CUSTODY AND GUARDIANSHIP OF THE CHILD BY AN
22 INDIVIDUAL; OR

23 (III) ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT
24 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.

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

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

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

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

5 (III) DETERMINE THE EXTENT OF COMPLIANCE WITH THE
6 PERMANENCY PLAN;

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

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

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

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

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

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

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

26 1. THE LOCAL DEPARTMENT CERTIFIES THE CHILD'S
27 SUCCESSFUL PLACEMENT WITH THE INDIVIDUAL UNDER THE SUPERVISION OF THE
28 LOCAL DEPARTMENT OR ITS AGENT FOR AT LEAST 180 DAYS OR A SHORTER PERIOD
29 ALLOWED BY THE JUVENILE COURT ON RECOMMENDATION OF THE LOCAL
30 DEPARTMENT;

31 2. THE LOCAL DEPARTMENT FILES A REPORT BY A CHILD
32 PLACEMENT AGENCY, COMPLETED IN ACCORDANCE WITH DEPARTMENT
33 REGULATIONS, AS TO THE SUITABILITY OF THE INDIVIDUAL TO BE THE CHILD'S
34 GUARDIAN; AND

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

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

1 B. CUSTODY AND GUARDIANSHIP BY THE INDIVIDUAL IS IN
2 THE CHILD'S BEST INTERESTS AND IS THE LEAST RESTRICTIVE ALTERNATIVE
3 AVAILABLE.

4 (II) DESIGNATION OF A GUARDIAN UNDER THIS PARAGRAPH
5 TERMINATES THE LOCAL DEPARTMENT'S LEGAL OBLIGATIONS AND
6 RESPONSIBILITIES TO THE CHILD.

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

10 (B) EMERGENCY REVIEW HEARING.

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

14 (I) REMOVAL IS NEEDED TO PROTECT THE CHILD FROM SERIOUS
15 IMMEDIATE DANGER;

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

18 (III) THE CHILD'S CAREGIVER ASKS FOR THE CHILD'S IMMEDIATE
19 REMOVAL.

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

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

25 1. THE CHILD'S ATTORNEY;

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

28 3. EACH OTHER PARTY'S ATTORNEY.

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

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

- 1 COMMITTEE NOTE: Subsection (a)(1), (2), and (8)(viii) of this section is
2 derived from former FL § 5-319(a), (b), and (d) through (f) and revised to
3 require review hearings at set intervals, rather than only on notice of a
4 disrupted placement.
- 5 Subsection (a)(3)(i) of this section is substituted for former FL § 5-319(c),
6 which imposed the notice requirement on a petitioner.
- 7 Subsection (a)(3)(ii) and (iii) and (4) of this section is new and added to
8 define the rights and status of parents and caretakers.
- 9 Subsection (a)(5) of this section is new and added to ensure that a court
10 and the parties have current information about a child in a timely manner
11 for consideration at a hearing.
- 12 Subsection (a)(6), (7), and (9) of this section is new and added to conform to
13 federal law, by allowing alternative plans in addition to adoption or
14 long-term care but in a timely manner and only when adoption is not in a
15 child's best interests.
- 16 Accordingly, in subsection (a)(2)(iii) of this section, the reference to
17 "reasonable efforts ... to finalize the permanency plan" is substituted for
18 the former reference to "progress ... toward the child's adoption".
- 19 Subsection (a)(8)(i) through (vii) of this section is new and added to clarify
20 the allowable scope of a court's order after a guardianship review hearing.
- 21 Subsection (a)(10) of this section is substituted for former FL § 5-319(g)
22 and (h), to set a minimum period before guardianship is awarded to an
23 individual, to spell out the effect of an individual guardianship, and to
24 provide a court with discretion as to continuing review.
- 25 Subsection (b) of this section is new and added to provide for an emergency
26 hearing in the event that a local department believes a court-ordered
27 placement is no longer suitable. Subsection (b) is patterned after current
28 CJ § 3-820.
- 29 In subsection (a)(8)(viii) of this section, the reference to "any order allowed
30 under § 5-324(b)(1)(ii) ..." is added to incorporate the types of action that a
31 court could take in granting a guardianship.
- 32 Defined terms: "Caregiver" § 5-301
- 33 "Child" § 5-301
- 34 "Child placement agency" § 5-101
- 35 "Department" § 5-101
- 36 "Guardianship" § 5-301

1 "Includes" § 1-101

2 "Including" § 1-101

3 "Juvenile court" § 1-101

4 "Local department" § 1-101

5 "Parent" § 5-301

6 "Party" § 5-301

7 5-327. FAILED CONDITIONAL PLACEMENT DURING GUARDIANSHIP.

8 IF, AFTER A JUVENILE COURT GRANTS GUARDIANSHIP, A PARTY BECOMES
9 AWARE THAT A CONDITION OF CONSENT TO THE GUARDIANSHIP MAY NOT BE
10 FULFILLED:

11 (1) THE PARTY PROMPTLY SHALL:

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

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

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

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

18 (I) SET ASIDE THE GUARDIANSHIP ORDER;

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

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

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

26 Defined terms: "CINA case" § 1-101

27 "Guardianship" § 5-301

28 "Juvenile court" § 1-101

29 "Party" § 5-301

1 5-328. TERMINATION OF GUARDIANSHIP.

2 (A) LOCAL DEPARTMENT GUARDIANSHIP.

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

5 (1) RETAINS JURISDICTION UNTIL:

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

7 (II) THE JUVENILE COURT FINDS THE CHILD TO BE ELIGIBLE FOR
8 EMANCIPATION; AND

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

11 (B) INDIVIDUAL GUARDIAN.

12 IF A JUVENILE COURT DESIGNATES AN INDIVIDUAL AS A CHILD'S GUARDIAN,
13 THE JUVENILE COURT:

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

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

19 (C) ADOPTION ORDER.

20 AN ORDER FOR ADOPTION OF A CHILD TERMINATES THE CHILD'S
21 GUARDIANSHIP CASE.

22 (D) CLOSING CASE.

23 ON TERMINATION OF A GUARDIANSHIP CASE, A JUVENILE COURT SHALL CLOSE
24 THE CASE.

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

27 Defined terms: "Child" § 5-301

28 "Guardianship" § 5-301

29 "Juvenile court" § 1-101

30 "Local department" § 1-101

1 5-329. RESERVED.

2 5-330. RESERVED.

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

4 5-331. PETITION.

5 (A) AUTHORIZED.

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

9 (B) PETITIONER.

10 (1) WITH THE CONSENT OF THE LOCAL DEPARTMENT WITH CUSTODY
11 OF A CHILD, ANY ADULT MAY PETITION A JUVENILE COURT UNDER THIS PART III OF
12 THIS SUBTITLE TO ADOPT THE CHILD.

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

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

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

19 (C) CONTENTS.

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

21 (I) FOR A PARENT WHO IS DEAD, A DEATH CERTIFICATE;

22 (II) FOR EACH OTHER PARENT:

23 1. THE CONSENT REQUIRED UNDER THIS PART III OF THIS
24 SUBTITLE;

25 2. AN AFFIDAVIT, BY THE LOCAL DEPARTMENT WITH
26 CUSTODY OF THE CHILD, STATING THAT:

27 A. DESPITE REASONABLE EFFORTS AS PROVIDED IN § 5-316
28 OF THIS SUBTITLE, THE PARENT CANNOT BE LOCATED; AND

29 B. TO THE BEST KNOWLEDGE OF THE LOCAL DEPARTMENT,
30 THE PARENT HAS NOT CONTACTED THE LOCAL DEPARTMENT OR CHILD FOR AT
31 LEAST 180 DAYS IMMEDIATELY BEFORE THE FILING OF THE PETITION; OR

32 3. IF APPLICABLE:

1 A. PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF
2 PARENTAL RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL
3 BODY OF A STATE OR OTHER JURISDICTION; AND

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

6 (III) EACH OTHER CONSENT REQUIRED UNDER § 5-338 OF THIS
7 SUBTITLE;

8 (IV) A COPY OF AN AGREEMENT, IF ANY, FOR POSTADOPTION
9 CONTACT; AND

10 (V) A NOTICE OF FILING THAT:

11 1. STATES THE DATE ON WHICH THE PETITION WAS FILED;

12 2. IDENTIFIES EACH PERSON WHOSE CONSENT WAS FILED
13 WITH THE PETITION;

14 3. STATES THE OBLIGATION OF A PARENT TO GIVE THE
15 JUVENILE COURT AND LOCAL DEPARTMENT NOTICE OF EACH CHANGE IN THE
16 PARENT'S ADDRESS;

17 4. IF APPLICABLE, STATES THAT A POSTADOPTION
18 AGREEMENT WAS FILED WITH THE PETITION; AND

19 5. INCLUDES NO IDENTIFYING INFORMATION THAT WOULD
20 BE IN VIOLATION OF AN AGREEMENT OR CONSENT.

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

23 (D) AMENDED PETITION.

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

26 (E) ASSISTANCE FROM LOCAL DEPARTMENT.

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

29 COMMITTEE NOTE: Subsection (a) of this section is derived from FL §
30 5-317(a) and revised to reflect the new mandate for a prior guardianship
31 petition absent special circumstances.

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

33 Subsections (b)(2) and (d) of this section are derived from former FL §
34 5-315(a)(2) and (3) and (b).

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

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

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

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

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

11 Defined terms: "Child" § 5-301

12 "Guardianship" § 5-301

13 "Identifying information" § 5-301

14 "Includes" § 1-101

15 "Including" § 1-101

16 "Juvenile court" § 1-101

17 "Local department" § 1-101

18 "Parent" § 5-301

19 "Person" § 1-101

20 "State" § 1-101

21 5-332. PARENTAL ADDRESSES.

22 A CLERK OF A JUVENILE COURT SHALL KEEP A LISTING OF EACH ADDRESS
23 GIVEN TO THE JUVENILE COURT FOR A PARENT UNDER THIS PART III OF THIS
24 SUBTITLE.

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

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

29 "Parent" § 5-301

30 5-333. NOTICE OF FILING.

31 (A) REQUIREMENT.

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

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

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

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

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

11 (B) METHOD.

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

13 (C) PARENTAL ADDRESS.

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

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

20 Defined terms: "Child" § 5-301

21 "CINA case" § 1-101

22 "Juvenile court" § 1-101

23 "Local department" § 1-101

24 "Parent" § 5-301

25 5-334. ORDER TO SHOW CAUSE.

26 (A) REQUIREMENT.

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

31 (B) SERVICE.

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

- 1 (1) EACH OF THE CHILD'S LIVING PARENTS;
- 2 (2) EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
3 CASE; AND
- 4 (3) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.
- 5 (C) METHOD.

6 SERVICE UNDER THIS SECTION SHALL BE:

- 7 (1) ON A PARENT, BY:
- 8 (I) FIRST CLASS MAIL; AND
- 9 (II) 1. PERSONAL SERVICE; OR
- 10 2. CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN
11 RECEIPT REQUESTED; AND
- 12 (2) ON AN ATTORNEY, BY:
- 13 (I) PERSONAL SERVICE; OR
- 14 (II) CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

15 (D) PARENTAL ADDRESSES.

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

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

20 Subsection (b)(1) and (3) of this section is derived from former FL §
21 5-322(a)(3) and, as it related to adoption, (1)(i) and (ii)2, and the
22 introductory language of (b) and revised to reflect that a petitioner's duty
23 begins "on issuance" of a show cause order by a court.

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

26 Subsection (c)(1) of this section is derived from the reference to "certified
27 mail or private process" in the introductory language of former FL §
28 5-322(b), and the inconsistent reference to "both certified mail and private
29 process", in former FL § 5-322(c)(2) is omitted.

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

32 Subsection (d) of this section is substituted for former FL § 5-322(b)(1)

1 through (e), as it related to adoption, for brevity.

2 Defined terms: "Child" § 5-301

3 "CINA case" § 1-101

4 "Juvenile court" § 1-101

5 "Parent" § 5-301

6 "Party" § 5-301

7 5-335. HEARING ON ADOPTION PETITION.

8 (A) REQUIREMENT.

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

11 (B) NOTICE.

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

14 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
15 5-324.1.

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

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

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

20 "Party" § 5-301

21 5-336. TIME LIMITS.

22 (A) MAXIMUM LIMIT.

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

26 (B) MINIMUM LIMIT.

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

29 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD;

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

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

3 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
4 5-317(d), as it related to adoptions, and revised to cover consensual as well
5 as nonconsensual adoptions. Accordingly, subsection (b) of this section is
6 added to prevent entry of an order for 30 days after birth and until after
7 the revocation or show cause period expires.

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

9 Defined terms: "Child" § 5-301

10 "Juvenile court" § 1-101

11 5-337. CONSIDERATIONS.

12 (A) GENERAL.

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

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

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

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

21 (I) THE SUITABILITY OF THE PETITIONER TO BE THE CHILD'S
22 PARENT; AND

23 (II) THE CHILD'S SUCCESSFUL PLACEMENT WITH THE PETITIONER
24 UNDER THE SUPERVISION OF THE LOCAL DEPARTMENT OR ITS AGENT FOR AT LEAST
25 180 DAYS OR A SHORTER PERIOD ALLOWED BY THE JUVENILE COURT ON
26 RECOMMENDATION OF THE LOCAL DEPARTMENT.

27 (B) MARITAL STATUS.

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

31 (C) CONSTRUCTION AS VOLUNTARY.

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

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

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

5 Subsection (a)(3) of this section is new and added to reflect the
6 requirements of the referenced regulations of the Department, in COMAR
7 07.02.12.10.

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

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

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

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

17 Defined terms: "Child" § 5-301

18 "Child placement agency" § 5-101

19 "Department" § 5-101

20 "Juvenile court" § 1-101

21 "Local department" § 1-101

22 "Parent" § 5-301

23 "Support" § 1-101

24 5-338. AUTHORITY TO GRANT ADOPTION.

25 (A) CONSENT OR ACQUIESCENCE.

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

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

29 1. IS REPRESENTED BY AN ATTORNEY;

30 2. HAS HAD AN OPPORTUNITY TO RECEIVE ADOPTION
31 COUNSELING AND GUIDANCE SERVICES; AND

32 3. CONSENTS TO THE ADOPTION:

- 1 A. IN WRITING; OR
- 2 B. KNOWINGLY AND VOLUNTARILY, ON THE RECORD
3 BEFORE THE JUVENILE COURT; AND
- 4 (II) A PARENT WHO DOES NOT CONSENT:
- 5 1. IS DEAD; OR
- 6 2. A. DESPITE REASONABLE EFFORTS AS PROVIDED IN §
7 5-316 OF THIS SUBTITLE, CANNOT BE LOCATED;
- 8 B. HAS NOT CONTACTED THE LOCAL DEPARTMENT WITH
9 CUSTODY OF THE CHILD OR THE CHILD FOR AT LEAST 180 DAYS IMMEDIATELY
10 BEFORE THE FILING OF THE PETITION; AND
- 11 C. FAILS TO RESPOND TO A SHOW CAUSE ORDER SERVED
12 UNDER § 5-334 OF THIS SUBTITLE;
- 13 (2) THE DIRECTOR OF THE LOCAL DEPARTMENT WITH CUSTODY OF THE
14 CHILD CONSENTS; AND
- 15 (3) THE CHILD:
- 16 (I) IS REPRESENTED BY AN ATTORNEY; AND
- 17 (II) 1. IF AT LEAST 10 YEARS OLD, CONSENTS; OR
- 18 2. IF UNDER THE AGE OF 10 YEARS, DOES NOT OBJECT.
- 19 (B) WITHHOLDING CONSENT.

20 A LOCAL DEPARTMENT MAY NOT WITHHOLD CONSENT FOR THE SOLE REASON
21 THAT THE RACE, RELIGION, COLOR OR NATIONAL ORIGIN OF A PROSPECTIVE
22 ADOPTIVE PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.

23 COMMITTEE NOTE: Subsection (a)(1), (2), and (3)(ii)1 of this section is derived
24 from former FL § 5-311(a) and revised to refer to adoption counseling and
25 guidance services and to allow consent by 1 parent in instances when the
26 other parent is dead or not in contact.

27 Subsection (a)(3)(i) of this section is new and added to reflect the expanded
28 requirement for representation by counsel.

29 Subsection (a)(3)(ii)2 of this section is new and added to allow for objection
30 by a child who is not old enough for consent.

31 Subsection (b) of this section is derived from former FL § 5-311(b)(2) and
32 revised to include "color" and "national origin" but omit "where to do so
33 would be contrary to the best interests of the child", to conform to the
34 federal law.

1 In subsection (b) of this section, the defined term "local department" is
2 substituted for the former reference to "the executive head of the child
3 placement agency" for brevity.

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

5 "Child" § 5-301

6 "Juvenile court" § 1-101

7 "Local department" § 1-101

8 "Parent" § 5-301

9 5-339. CONSENT.

10 (A) CONTENTS AND ATTACHMENTS.

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

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

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

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

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

21 (I) THE CONSENT IS GIVEN IN A LANGUAGE THAT THE PARTY
22 UNDERSTANDS;

23 (II) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH, THE
24 CONSENT:

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

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

28 (III) THE CONSENT NAMES THE CHILD;

29 (IV) THE CONSENT CONTAINS ENOUGH INFORMATION TO IDENTIFY
30 THE PROSPECTIVE ADOPTIVE PARENT;

31 (V) THE PARTY HAS RECEIVED WRITTEN NOTICE OR ON THE
32 RECORD NOTICE OF:

1 on the record consent, *see* Md. Rule 16-819.

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

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

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

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

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

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

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

16 "Child" § 5-301

17 "Disability" § 5-101

18 "Identifying information" § 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 5-340. DISMISSAL.

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

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

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

1 5-341. ORDER FOR ADOPTION.

2 (A) EFFECT ON PARENT-CHILD RELATIONSHIP.

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

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

8 (I) THE ADOPTEE:

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

11 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
12 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
13 ADOPTIVE PARENT;

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

15 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
16 TO THE ADOPTEE; AND

17 2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
18 ADOPTEE; AND

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

21 (B) EFFECT ON PENDING CASES.

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

24 (C) NOTICE OF ORDER.

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

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

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

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

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

3 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
4 5-308(a) and (b).

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

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

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

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

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

19 In subsection (a)(2)(i)2 of this section, the reference to "offspring born" to
20 the adoptive parent is substituted for the former reference to "a child born
21 to the petitioner in wedlock", to avoid the misleading inference that
22 illegitimacy affects a right, privilege, or obligation of a biological offspring
23 or that the age of majority might affect an adoptee differently from a
24 biological offspring.

25 In subsection (a)(2)(ii) of this section, the former reference to a "natural"
26 parent is omitted to reflect that the duties and rights of nonbiological - i.e.,
27 adoptive - relatives are affected in the same manner as a biological
28 relative. Accordingly, in subsection (a)(2)(iii) of this section, a reference to
29 "parental" relatives is substituted for the former reference to "natural"
30 relatives.

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

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

35 "Child" § 5-301

36 "CINA case" § 1-101

37 "Juvenile court" § 1-101

1 "Parent" § 5-301

2 5-342. PETITION TO INVALIDATE.

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

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

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

12 5-343. RESERVED.

13 5-344. RESERVED.

14 PART IV. ADOPTION AFTER TERMINATION OF PARENTAL RIGHTS.

15 5-345. PETITION.

16 (A) AUTHORIZED.

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

20 (B) PETITIONER.

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

23 (2) IF A PETITIONER UNDER THIS SECTION IS MARRIED, THE
24 PETITIONER'S SPOUSE SHALL 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; OR

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

29 (C) CONTENTS.

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

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

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

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

4 Defined terms: "Child" § 5-301

5 "Guardianship" § 5-301

6 "Identifying information" § 5-301

7 "Includes" § 1-101

8 "Including" § 1-101

9 "Juvenile court" § 1-101

10 "Person" § 1-101

11 "State" § 1-101

12 5-346. NOTICE OF FILING.

13 (A) REQUIREMENT.

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

18 (1) THE LOCAL DEPARTMENT; AND

19 (2) THE CHILD'S LAST ATTORNEY OF RECORD IN THE GUARDIANSHIP
20 CASE.

21 (B) METHOD.

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

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

25 Defined terms: "Child" § 5-301

26 "Guardianship" § 5-301

27 "Juvenile court" § 1-101

28 "Local department" § 1-101

29 5-347. HEARING ON ADOPTION PETITION.

30 (A) REQUIREMENT.

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

3 (B) NOTICE.

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

6 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
7 5-324.1.

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

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

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

12 5-348. TIME LIMITS.

13 (A) MAXIMUM LIMIT.

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

17 (B) MINIMUM LIMIT.

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

20 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD; OR

21 (2) 10 DAYS AFTER THE NOTICE IS SERVED UNDER § 5-346 OF THIS
22 SUBTITLE.

23 COMMITTEE NOTE: This section is derived from former FL §§ 5-317(d) and
24 5-324, as they related to adoptions.

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

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

29 Defined terms: "Child" § 5-301

30 "Juvenile court" § 1-101

31 5-349. CONSIDERATIONS.

32 (A) GENERAL.

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

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

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

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

9 (I) THE SUITABILITY OF THE PETITIONER TO BE THE CHILD'S
10 PARENT; AND

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

15 (B) MARITAL STATUS.

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

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

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

25 Subsection (a)(3) of this section is new and added to reflect the
26 requirements of the referenced regulations of the Department, in COMAR
27 07.02.12.10.

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

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

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

35 Defined terms: "Child" § 5-301

36 "Child placement agency" § 5-101

1 "Department" § 5-101

2 "Juvenile court" § 1-101

3 "Local department" § 1-101

4 "Support" § 1-101

5 5-350. AUTHORITY TO GRANT ADOPTION.

6 (A) CONSENT.

7 A JUVENILE COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER
8 THIS PART IV OF THIS SUBTITLE ONLY IF:

9 (1) FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, THE
10 INDIVIDUAL'S GUARDIAN CONSENTS; AND

11 (2) FOR AN INDIVIDUAL WHO IS AT LEAST 10 YEARS OLD, THE
12 INDIVIDUAL CONSENTS.

13 (B) WITHHOLDING CONSENT.

14 A GUARDIAN MAY NOT WITHHOLD CONSENT FOR THE SOLE REASON THAT THE
15 RACE, RELIGION, COLOR, OR NATIONAL ORIGIN OF A PROSPECTIVE ADOPTIVE
16 PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.

17 COMMITTEE NOTE: This section is derived from former FL § 5-311(b).

18 In subsection (a)(1) of this section, reference to a "guardian" of an
19 individual "under the age of 18 years" is substituted for the former
20 reference to the "executive head of the child placement agency that has
21 been awarded guardianship", for brevity and consistency with new §
22 5-328(a).

23 Subsection (b) of this section is derived from former FL § 5-311(b)(2) and
24 revised to include "color" and "national origin" but omit "where to do so
25 would be contrary to the best interests of the child", to conform to the
26 federal law.

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

28 "Child" § 5-301

29 "Juvenile court" § 1-101

30 "Parent" § 5-301

31 5-351. CONSENT.

32 (A) CONTENTS AND ATTACHMENTS.

1 CONSENT OF A PARTY TO AN ADOPTION UNDER THIS PART IV OF THIS SUBTITLE
2 IS NOT VALID UNLESS:

3 (1) THE CONSENT IS GIVEN IN A LANGUAGE THAT THE PARTY
4 UNDERSTANDS;

5 (2) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH, THE CONSENT:

6 (I) IS GIVEN BEFORE A JUDGE ON THE RECORD; OR

7 (II) IS ACCOMPANIED BY THE AFFIDAVIT OF A TRANSLATOR
8 STATING THAT THE TRANSLATION OF THE DOCUMENT OF CONSENT IS ACCURATE;

9 (3) THE CONSENT NAMES THE CHILD;

10 (4) THE CONSENT CONTAINS ENOUGH INFORMATION TO IDENTIFY THE
11 PROSPECTIVE ADOPTIVE PARENT; AND

12 (5) THE PARTY HAS RECEIVED WRITTEN NOTICE OR ON-THE-RECORD
13 NOTICE OF:

14 (I) THE REVOCATION PROVISIONS IN THIS SECTION;

15 (II) THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER §
16 5-359 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, PARENTS, AND
17 SIBLINGS UNDER SUBTITLE 4B OF THIS TITLE; AND

18 (III) THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-359 OF
19 THIS SUBTITLE.

20 (B) REVOCATION BY GUARDIAN.

21 A GUARDIAN MAY REVOKE CONSENT TO AN ADOPTION UNDER THIS PART IV OF
22 THIS SUBTITLE AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ORDER OF
23 ADOPTION UNDER THIS PART IV OF THIS SUBTITLE.

24 (C) REVOCATION BY CHILD.

25 A CHILD MAY REVOKE CONSENT TO AN ADOPTION UNDER THIS PART IV OF THIS
26 SUBTITLE AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ORDER OF
27 ADOPTION UNDER THIS PART IV OF THIS SUBTITLE.

28 COMMITTEE NOTE: Subsection (a)(1) and (2) of this section is new and added
29 to ensure that consent is given knowingly, by ensuring that the individual
30 consenting understands the consent being given. As to interpreters in
31 connection with on-the-record consent, *see* Md. Rule 16-819.

32 Subsection (a)(3) and(4) of this section is new and added for completeness.
33 Subsection (a)(5) of this section is derived from former FL § 5-314(a).

34 Subsection (b) of this section is substituted for former FL § 5-311(c), as it

1 related to a guardian, to expand the revocation period.

2 Subsection (c) of this section is derived from former FL § 5-311(c)(2).

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

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

6 "Child" § 5-301

7 "Juvenile court" § 1-101

8 "Parent" § 5-301

9 "Party" § 5-301

10 5-352. ORDER FOR ADOPTION.

11 (A) EFFECT ON PARENT-CHILD RELATIONSHIP.

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

14 (2) EXCEPT AS PROVIDED IN § 2-123 OF THE REAL PROPERTY ARTICLE,
15 AFTER A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS PART IV
16 OF THIS SUBTITLE:

17 (I) THE ADOPTEE:

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

20 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
21 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
22 ADOPTIVE PARENT;

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

24 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
25 TO THE ADOPTEE; AND

26 2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
27 ADOPTEE; AND

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

30 (B) EFFECT ON PENDING CASES.

31 AN ORDER FOR ADOPTION UNDER THIS PART IV OF THIS SUBTITLE
32 TERMINATES ALL PENDING GUARDIANSHIP CASES AS TO THE ADOPTEE.

1 (C) NOTICE OF ORDER.

2 (1) WHEN A JUVENILE COURT ENTERS AN ORDER FOR A CHILD'S
3 ADOPTION UNDER THIS PART IV OF THIS SUBTITLE, THE JUVENILE COURT SHALL
4 SEND NOTICE TO:

5 (I) EACH JUVENILE COURT THAT HAS A PENDING GUARDIANSHIP
6 CASE AS TO THE ADOPTEE;

7 (II) EACH OF THE CHILD'S LIVING, FORMER PARENTS WHO HAS
8 NOT WAIVED THE RIGHT TO NOTICE;

9 (III) THE FORMER PARENT'S LAST ATTORNEY OF RECORD IN THE
10 GUARDIANSHIP CASE; AND

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

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

15 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
16 5-308(a) and (b).

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

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

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

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

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

31 In subsection (a)(2)(i)2 of this section, the reference to "offspring born" to
32 the adoptive parent is substituted for the former reference to "a child born
33 to the petitioner in wedlock", to avoid the misleading inference that
34 illegitimacy affects a right, privilege, or obligation of a biological offspring
35 or that the age of majority might affect an adoptee differently from a
36 biological offspring.

1 In subsection (a)(2)(ii) of this section, the former reference to a "natural"
2 parent is omitted to reflect that the duties and rights of nonbiological - i.e.,
3 adoptive - relatives are affected in the same manner as a biological
4 relative's. Accordingly, in subsection (a)(2)(iii) of this section, a reference to
5 "parental" relatives is substituted for the former reference to "natural"
6 relatives.

7 Former FL § 5-308(c) and (e), which discounted any difference in orders as
8 to adults and minors or as to interlocutory and final orders, are omitted as
9 unnecessary.

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

11 "Child" § 5-301

12 "Guardianship" § 5-301

13 "Juvenile court" § 1-101

14 "Parent" § 5-301

15 5-353. PETITION TO INVALIDATE.

16 IF A PETITION TO INVALIDATE AN ORDER FOR ADOPTION UNDER THIS PART IV
17 OF THIS SUBTITLE ON THE BASIS OF A JURISDICTIONAL OR PROCEDURAL DEFECT IS
18 FILED MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A JUVENILE COURT SHALL
19 DISMISS THE PETITION.

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

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

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

25 5-354. RESERVED.

26 5-355. RESERVED.

27 PART V. ACCESS TO RECORDS.

28 5-356. MEDICAL AND PSYCHOLOGICAL INFORMATION.

29 (A) COMPILATION OF ADOPTEE'S RECORDS OR HISTORY.

30 A LOCAL DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO COMPILE AND
31 MAKE AVAILABLE TO A PROSPECTIVE ADOPTIVE PARENT:

32 (1) ALL OF THE PROSPECTIVE ADOPTEE'S MEDICAL AND PSYCHIATRIC
33 RECORDS THAT THE LOCAL DEPARTMENT HAS; OR

1 (2) A COMPREHENSIVE MEDICAL AND PSYCHIATRIC HISTORY OF THE
2 PROSPECTIVE ADOPTEE.

3 (B) COMPILATION OF PARENTAL HISTORY.

4 ON REQUEST OF AN ADOPTIVE OR PROSPECTIVE ADOPTIVE PARENT, A LOCAL
5 DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO COMPILE A PERTINENT
6 MEDICAL AND PSYCHIATRIC HISTORY OF EACH OF THE PROSPECTIVE ADOPTEE'S OR
7 ADOPTEE'S PARENTS OR FORMER PARENTS, IF AVAILABLE TO THE LOCAL
8 DEPARTMENT, AND TO MAKE THE HISTORY AVAILABLE TO THE ADOPTIVE OR
9 PROSPECTIVE ADOPTIVE PARENT.

10 (C) LATER RECEIVED INFORMATION.

11 IF, AFTER ADOPTION, A LOCAL DEPARTMENT RECEIVES MEDICAL OR
12 PSYCHOLOGICAL INFORMATION ABOUT THE ADOPTEE OR ADOPTEE'S FORMER
13 PARENT, THE LOCAL DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO MAKE
14 THE INFORMATION AVAILABLE TO THE ADOPTIVE PARENT.

15 (D) EXCLUSION OF IDENTIFYING INFORMATION.

16 A MEDICAL OR PSYCHIATRIC HISTORY COMPILED UNDER THIS SECTION MAY
17 NOT CONTAIN IDENTIFYING INFORMATION ABOUT A PARENT OR FORMER PARENT.

18 COMMITTEE NOTE: Subsection (a) of this section is new and added to provide
19 for a local department to compile information on a prospective adoptee
20 available to the department, including any dental records.

21 Subsections (b) and (d) of this section are derived from former FL § 5-328.

22 Subsection (c) of this section is new and added to ensure transmittal of
23 later discovered information about an adoptee and, even without a request
24 under subsection (b), a former parent.

25 In subsections (b) and (d) of this section, the references to "psychiatric"
26 records are added to ensure inclusion of such information as available,
27 without identifying information.

28 In subsection (b) of this section, the reference to a "request" is added to
29 obviate the need to compile information that a prospective or adoptive
30 parent does not want.

31 Also in subsection (b) of this section, "reasonable efforts" and "if available"
32 are added to reflect that a local department may be unable to compile all of
33 the information or contact a parent after an adoption.

34 Also in subsection (b) of this section, the newly defined term "local
35 department" is substituted for the former reference to a "person authorized
36 to place a minor child for adoption", for brevity and consistency with the
37 revised scope of this subtitle.

1 In subsection (d) of this section, the defined term "identifying information"
2 is substituted for the former, limited reference to "identity".

3 Also in subsection (d) of this section, the former word "natural" is omitted,
4 to reflect that the parental rights of a nonbiological - i.e., adoptive-parent
5 can be terminated in the same manner as a biological parent's can and
6 identifying information about such parent should be protected as well.

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

8 "Identifying information" § 5-301

9 "Local department" § 1-101

10 "Parent" § 5-301

11 5-357. COURT AND DEPARTMENT RECORDS.

12 (A) ACCESS.

13 (1) (I) ON REQUEST OF AN ADOPTEE OR ADOPTIVE OR FORMER
14 PARENT OF AN ADOPTEE AND WITHOUT A SHOWING OF A NEED, A LOCAL
15 DEPARTMENT SHALL PROVIDE INFORMATION, OTHER THAN IDENTIFYING
16 INFORMATION, IN ITS ADOPTION RECORD ON THE ADOPTEE.

17 (II) IF A LOCAL DEPARTMENT DENIES A REQUEST UNDER THIS
18 PARAGRAPH, THEN ON PETITION OF AN ADOPTEE OR ADOPTIVE OR FORMER PARENT
19 AND WITHOUT A SHOWING OF NEED, A JUVENILE COURT SHALL ORDER ACCESS FOR
20 THE PETITIONER TO INSPECT, IN ACCORDANCE WITH SUBSECTION (B) OF THIS
21 SECTION, THE LOCAL DEPARTMENT'S RECORD ON THE ADOPTEE.

22 (2) ON PETITION OF AN ADOPTEE OR ADOPTIVE OR FORMER PARENT OF
23 AN ADOPTEE AND WITHOUT A SHOWING OF NEED, A JUVENILE COURT SHALL ORDER
24 ACCESS FOR THE PETITIONER TO INSPECT, IN ACCORDANCE WITH SUBSECTION (B)
25 OF THIS SECTION, THE JUVENILE COURT'S RECORD ON THE ADOPTEE.

26 (B) PROTECTION OF IDENTIFYING INFORMATION.

27 A JUVENILE COURT MAY NOT ORDER OPENED FOR INSPECTION UNDER THIS
28 SECTION ANY PART OF A RECORD THAT CONTAINS IDENTIFYING INFORMATION.

29 COMMITTEE NOTE: This section is derived from former FL § 5-329(a) and
30 (b).

31 In subsection (a)(1) and (2) of this section, the references to an "adoptive or
32 former parent" are substituted for the former references to a "birth
33 parent", to encompass all individuals who currently are or at any time
34 previously have been a "parent". Accordingly, in subsection (b) of this
35 section, the former reference to a "former" parent is omitted.

36 In subsection (a)(1) of this section, the newly defined term "local

1 department" is substituted for the former references to a "child placement
2 agency", for brevity and consistency with the revised scope of this subtitle.

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

4 "Identifying information" § 5-301

5 "Juvenile court" § 1-101

6 "Local department" § 1-101

7 "Parent" § 5-301

8 5-358. URGENTLY NEEDED MEDICAL INFORMATION.

9 (A) HEARING ON NEED.

10 IF, AFTER A HEARING ON A PETITION OF AN ADOPTEE OR FORMER PARENT, A
11 JUVENILE COURT IS SATISFIED THAT THE ADOPTEE OR BLOOD RELATIVE OF THE
12 ADOPTEE OR FORMER PARENT URGENTLY NEEDS MEDICAL INFORMATION NOT IN
13 LOCAL DEPARTMENT AND JUVENILE COURT RECORDS, THE JUVENILE COURT MAY
14 APPOINT AN INTERMEDIARY TO TRY TO CONTACT THE ADOPTEE OR A FORMER
15 PARENT OF THE ADOPTEE FOR THE INFORMATION.

16 (B) ROLE OF INTERMEDIARY.

17 AN INTERMEDIARY APPOINTED UNDER THIS SECTION:

18 (1) MAY ONLY ADVISE AN ADOPTEE OR FORMER PARENT OF THE NEED
19 FOR MEDICAL INFORMATION; AND

20 (2) MAY NOT:

21 (I) REVEAL ANY IDENTIFYING INFORMATION ABOUT AN ADOPTEE
22 OR FORMER PARENT; OR

23 (II) TRY, IN ANY MANNER, TO ENCOURAGE OR DISCOURAGE
24 CONTACT BETWEEN AN ADOPTEE AND FORMER PARENT.

25 (C) REPORT TO COURT.

26 AN INTERMEDIARY APPOINTED UNDER THIS SECTION SHALL FILE WITH THE
27 APPOINTING JUVENILE COURT A CONFIDENTIAL WRITTEN REPORT ON THE
28 INTERMEDIARY'S EFFORTS TO CONTACT AN ADOPTEE OR FORMER PARENT.

29 (D) DISCLOSURE BY COURT.

30 WHEN A JUVENILE COURT RECEIVES A REPORT FROM AN INTERMEDIARY, THE
31 JUVENILE COURT MAY DISCLOSE TO THE ADOPTEE OR FORMER PARENT, WITHOUT
32 REVEALING IDENTIFYING INFORMATION ABOUT AN ADOPTEE OR FORMER PARENT:

1 (1) WHETHER THE INTERMEDIARY ADVISED AN ADOPTEE OR FORMER
2 PARENT ABOUT THE NEED FOR MEDICAL INFORMATION; AND

3 (2) MEDICAL INFORMATION THAT THE ADOPTEE OR A FORMER PARENT
4 PROVIDED.

5 (E) COMPENSATION.

6 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A JUVENILE COURT MAY
7 ORDER AN ADOPTEE OR FORMER PARENT TO PAY A REASONABLE FEE FOR THE
8 SERVICES OF AN INTERMEDIARY UNDER THIS SECTION.

9 COMMITTEE NOTE: This section is derived from former FL § 5-329(c)
10 through (e) and revised to clarify that an intermediary is allowed to contact
11 only a former parent and not a spouse, child, or other family member of a
12 former parent.

13 Throughout this section, references to a "former" parent are substituted for
14 the former references to a "birth" parent, to recognize that, e.g., a former
15 parent, by adoption, may have information about an adoptee or biological
16 parent.

17 In subsection (a) of this section, the newly defined term "local department"
18 is substituted for the former reference to the "child placement agency", for
19 brevity and consistency with the revised scope of this subtitle.

20 Also in subsection (a) of this section, the former reference to "evidence
21 presented at the hearing" is omitted as unnecessary in light of the rules
22 governing proceedings generally and as potentially overnarrow should a
23 court request memoranda or other submissions to which an opposing party
24 has an opportunity to respond.

25 Defined terms: "Identifying information" § 5-301

26 "Juvenile court" § 1-101

27 "Local department" § 1-101

28 "Parent" § 5-301

29 5-359. VITAL RECORDS.

30 (A) DEFINITIONS.

31 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
32 STATED.

33 (2) "DIRECTOR" MEANS THE STATE DIRECTOR OF SOCIAL SERVICES.

34 (3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
35 HYGIENE.

1 (B) SCOPE OF SECTION.

2 THIS SECTION APPLIES ONLY TO AN ADOPTION IN WHICH A JUVENILE COURT
3 ENTERS AN ORDER FOR ADOPTION ON OR AFTER JANUARY 1, 2000.

4 (C) CONSTRUCTION OF SECTION.

5 THIS SECTION DOES NOT BAR:

6 (1) AN ADOPTEE OR BIOLOGICAL PARENT FROM APPLYING FOR SEARCH,
7 CONTACT, AND REUNION SERVICES UNDER SUBTITLE 4B OF THIS TITLE; OR

8 (2) THE DIRECTOR OR A CONFIDENTIAL INTERMEDIARY FROM
9 OBTAINING A COPY OF A RECORD UNDER § 5-4B-04(C) OR § 5-4B-06(B) OR (C) OF THIS
10 TITLE.

11 (D) APPLICATION FOR RECORD.

12 (1) AN ADOPTEE WHO IS AT LEAST 21 YEARS OLD MAY APPLY TO THE
13 SECRETARY FOR A COPY OF:

14 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

15 (II) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
16 CERTIFICATE OF BIRTH, IF ANY; AND

17 (III) 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 (2) IF AN ADOPTEE IS AT LEAST 21 YEARS OLD, A BIOLOGICAL PARENT
20 OF THE ADOPTEE MAY APPLY TO THE SECRETARY FOR A COPY OF:

21 (I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

22 (II) THE NEW CERTIFICATE OF BIRTH, IF ANY, THAT WAS
23 SUBSTITUTED, UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE, FOR THE
24 ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

25 (III) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW
26 CERTIFICATE OF BIRTH; AND

27 (IV) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED
28 BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

29 (3) EACH APPLICANT UNDER THIS SUBSECTION SHALL:

30 (I) PROVIDE ALL PROOF OF IDENTITY AND OTHER RELEVANT
31 INFORMATION THAT THE SECRETARY REQUIRES; AND

32 (II) PAY THE FEE REQUIRED UNDER TITLE 4, SUBTITLE 2 OF THE
33 HEALTH - GENERAL ARTICLE FOR A COPY OF A RECORD.

1 (E) DISCLOSURE VETO.

2 (1) A BIOLOGICAL PARENT MAY:

3 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
4 DISCLOSURE OF INFORMATION ABOUT THAT PARENT IN A RECORD ACCESSIBLE
5 UNDER THIS SECTION;

6 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

7 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

8 (2) AN ADOPTEE AT LEAST 21 YEARS OLD MAY:

9 (I) FILE WITH THE DIRECTOR A DISCLOSURE VETO, TO BAR
10 DISCLOSURE OF INFORMATION ABOUT THE ADOPTEE IN A RECORD ACCESSIBLE
11 UNDER THIS SECTION;

12 (II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

13 (III) REFILE A DISCLOSURE VETO AT ANY TIME.

14 (3) IMMEDIATELY AFTER THE DIRECTOR RECEIVES A DISCLOSURE VETO
15 OR CANCELLATION UNDER THIS SUBSECTION, THE DIRECTOR SHALL FORWARD A
16 COPY TO THE SECRETARY.

17 (F) DUTIES OF SECRETARY.

18 (1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
19 SECTION.

20 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE
21 SECRETARY SHALL GIVE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF
22 THIS SECTION A COPY OF EACH RECORD THAT THE APPLICANT REQUESTED AND
23 THAT THE SECRETARY HAS ON FILE.

24 (3) WHENEVER A BIOLOGICAL PARENT APPLIES FOR A RECORD, THE
25 SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO:

26 (I) THE OTHER BIOLOGICAL PARENT, IF THAT PARENT HAS FILED
27 A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION; AND

28 (II) THE ADOPTEE AND EACH ADOPTIVE PARENT, IF THE ADOPTEE
29 HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

30 (4) WHENEVER AN ADOPTEE APPLIES FOR A RECORD, THE SECRETARY
31 SHALL REDACT FROM THE COPY ALL INFORMATION AS TO A BIOLOGICAL PARENT, IF
32 THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

1 (5) THE SECRETARY SHALL GIVE EACH APPLICANT UNDER THIS
2 SECTION NOTICE OF THE ADOPTION SEARCH, CONTACT, AND REUNION SERVICES
3 AVAILABLE UNDER SUBTITLE 4B OF THIS TITLE.

4 COMMITTEE NOTE: Subsection (a) of this section is new and added to allow
5 concise reference to the Director and Secretary.

6 Subsections (b) through (f) of this section are derived from former FL §§
7 5-3A-01 through 5-3A-07.

8 In subsection (e)(3) of this section, a duty to forward a cancellation is
9 added, for completeness.

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

11 "Director" § 5-359

12 "Juvenile court" § 1-101

13 "Parent" § 5-301

14 "Secretary" § 5-359

15 5-360. RESERVED.

16 5-361. RESERVED.

17 PART VI. PROHIBITED ACTS.

18 5-362. PROHIBITED PAYMENTS.

19 (A) PROHIBITED ACT.

20 EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON MAY NOT CHARGE OR
21 RECEIVE, FROM OR FOR A PARENT OR PROSPECTIVE ADOPTIVE PARENT, ANY
22 COMPENSATION FOR A SERVICE IN CONNECTION WITH:

23 (1) PLACEMENT OF AN INDIVIDUAL TO LIVE WITH A PREADOPTIVE
24 PARENT, AS DEFINED IN § 3-823(I)(1) OF THE COURTS ARTICLE; OR

25 (2) AN AGREEMENT FOR CUSTODY IN CONTEMPLATION OF ADOPTION.

26 (B) CONSTRUCTION OF SECTION.

27 (1) IN THIS SUBSECTION, "ADMINISTRATION" MEANS THE SOCIAL
28 SERVICES ADMINISTRATION OF THE DEPARTMENT.

29 (2) THIS SECTION DOES NOT:

30 (I) PROHIBIT PAYMENT, BY AN INTERESTED PERSON, OF A
31 CUSTOMARY AND REASONABLE CHARGE OR FEE FOR HOSPITAL, LEGAL, OR MEDICAL
32 SERVICES; OR

1 (II) PREVENT THE ADMINISTRATION, OR A PERSON THAT THE
 2 ADMINISTRATION LICENSES OR SUPERVISES, FROM RECEIVING AND ACCEPTING
 3 REASONABLE REIMBURSEMENT FOR COSTS OF AN ADOPTIVE SERVICE IN
 4 CONNECTION WITH ADOPTION, IF:

5 1. THE REIMBURSEMENT IS IN ACCORDANCE WITH
 6 STANDARDS SET BY REGULATION OF THE ADMINISTRATION; AND

7 2. THE ABILITY TO PROVIDE THIS REIMBURSEMENT DOES
 8 NOT AFFECT:

9 A. THE ACCEPTABILITY OF ANY INDIVIDUAL FOR ADOPTIVE
 10 SERVICES; OR

11 B. THE CHOICE OF THE MOST SUITABLE PROSPECTIVE
 12 ADOPTIVE PARENT.

13 (C) DUTY OF STATE'S ATTORNEY.

14 EACH STATE'S ATTORNEY SHALL ENFORCE THIS SECTION.

15 (D) PENALTIES.

16 A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A
 17 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 OR
 18 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR BOTH, FOR EACH OFFENSE.

19 COMMITTEE NOTE: Subsections (a), (b)(2), (c), and (d) of this section are
 20 derived from former FL § 5-327(a), (b), (d), and (e) and the substance of §
 21 5-301(j), which defined "placement for adoption".

22 Subsection (b)(1) of this section is new and added to allow concise reference
 23 to the Administration.

24 In subsections (a) and (b)(2)(ii)2B of this section, references to a
 25 prospective "adoptive parent" are substituted for the former references to
 26 the "individual who is adopting the individual" and the prospective
 27 adoptive "family or individual for a child who is to be adopted", for brevity
 28 and consistency with other references throughout this subtitle.

29 In subsections (a), (b)(2), and (d) of this section, the references to a "person"
 30 are substituted for the former references to "an agency, institution, or
 31 individual" and "agency or institution", to state expressly that
 32 governmental units are covered - a private "agency, institution, or
 33 individual" being within the defined term "person".

34 In subsection (a) of this section, the phrase "by law" is added to delineate
 35 the scope of the exception.

36 In subsection (b)(2)(ii)1 of this section, the former word "rules" is deleted in

1 light of the definition of "regulation" in SG § 10-101 and the usage of
2 "regulation" for Executive Branch units and "rule" for Judicial Branch
3 units.

4 In subsection (c) of this section, a duty to "enforce" is substituted for the
5 former duty to "prosecute any violation", as more consistent with
6 prosecutorial discretion.

7 In subsection (d) of this section, reference to a violation of "any provision"
8 is added to clarify that a prosecutor need not show violation of every
9 provision.

10 Defined terms: "Administration" § 5-362

11 "Adoptive parent" § 5-101

12 "Department" § 5-101

13 "Parent" § 5-301

14 "Person" § 1-101

15 SUBTITLE 3A. PRIVATE AGENCY GUARDIANSHIP AND ADOPTION.

16 PART I. GENERAL PROVISIONS.

17 5-3A-01. 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) CHILD.

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

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

32 Defined term: "Guardianship" § 5-3A-01

33 (C) GUARDIANSHIP.

1 "GUARDIANSHIP" MEANS AN AWARD, UNDER THIS SUBTITLE, OF ANY POWER OF
2 A GUARDIAN.

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

6 (D) IDENTIFYING INFORMATION. "IDENTIFYING INFORMATION" MEANS
7 INFORMATION THAT REVEALS THE IDENTITY OR LOCATION OF AN INDIVIDUAL.

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

11 (E) PARENT.

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

15 (I) MEETS A CRITERION IN § 5-3A-06(A) OF THIS SUBTITLE; OR

16 (II) IS THE MOTHER.

17 (2) "PARENT" DOES NOT INCLUDE AN INDIVIDUAL WHOM A COURT HAS
18 ADJUDICATED NOT TO BE A FATHER OR MOTHER.

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

22 Defined terms: "Guardianship" § 5-3A-01

23 "Includes" § 1-101

24 "Including" § 1-101

25 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in new
26 § 5-3A-01, definitions in §§ 1-101 and 5-101 of this article apply to this
27 subtitle.

28 5-3A-02. SCOPE OF SUBTITLE.

29 (A) APPLICATION.

30 THIS SUBTITLE APPLIES ONLY TO:

31 (1) GUARDIANSHIP BY A CHILD PLACEMENT AGENCY OF A CHILD OTHER
32 THAN A CHILD IN NEED OF ASSISTANCE; AND

33 (2) ADOPTION OF THE CHILD.

1 (B) EFFECT.

2 EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBTITLE, THIS SUBTITLE DOES NOT
3 APPLY TO ANY CASE PENDING ON OR BEFORE SEPTEMBER 30, 2005.

4 COMMITTEE NOTE: Subsection (a) of this section is new and added to make
5 clear the scope of this subtitle.

6 Subsection (b) of this section is substituted for former FL § 5-302, which
7 stated the effect of the former FL provisions and became obsolete with the
8 enactment of this subtitle. This substitution is not intended to limit the
9 access to records in cases filed or postadoption contact agreements entered
10 into on or before October 1, 2005.

11 Defined terms: "Child" § 5-3A-01

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

13 "Child placement agency" § 5-101

14 "Guardianship" § 5-3A-01

15 5-3A-03. STATEMENT OF FINDINGS; PURPOSES.

16 (A) STATEMENT OF FINDINGS.

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

19 (B) PURPOSES.

20 THE PURPOSES OF THIS SUBTITLE ARE TO:

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

23 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
24 THEIR PARENTS;

25 (3) ENSURE ADOPTION ONLY BY INDIVIDUALS FIT FOR THE
26 RESPONSIBILITY;

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

29 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY PROVIDING THEM
30 INFORMATION ABOUT PROSPECTIVE ADOPTEES AND THEIR BACKGROUNDS; AND

31 (6) PROTECT ADOPTIVE PARENTS FROM A FUTURE DISTURBANCE OF
32 THEIR RELATIONSHIP WITH ADOPTEES BY FORMER PARENTS.

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

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

3 In subsection (b)(1) of this section, reference to "timely" provision of
4 "permanent and safe homes ... consistent with [the children's] best
5 interests" is substituted for the former reference to "stable homes that
6 protect ... safety and health", to emphasize the need for prompt resolution
7 of a case in accordance with the "best interests" standard applicable under,
8 e.g., former FL §§ 5-308, 5-311, 5-313, and 5-317.

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

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

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

19 "Child" § 5-3A-01

20 "Parent" § 5-3A-01

21 5-3A-04. RELATIONSHIP WITH TITLE 5, SUBTITLE 5.

22 THIS SUBTITLE IS RELATED TO AND SHOULD BE READ IN RELATION TO
23 SUBTITLE 5 OF THIS TITLE.

24 COMMITTEE NOTE: This section formerly was FL § 5-304. No change is
25 made.

26 5-3A-05. FOREIGN ORDERS.

27 (A) "ORDER" DEFINED.

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

31 (B) ORDER OF ANOTHER STATE.

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

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

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

3 (C) OTHER FOREIGN ORDERS.

4 AS TO A JURISDICTION OTHER THAN A STATE:

5 (1) AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN
6 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
7 EFFECT AS AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS STATE;
8 AND

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

12 (D) CONSTRUCTION.

13 THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL TO
14 PETITION A COURT IN THIS STATE FOR ADOPTION OF AN ADOPTEE IF:

15 (1) THE INDIVIDUAL ADOPTED THE ADOPTEE IN COMPLIANCE WITH
16 THE LAWS OF A JURISDICTION OTHER THAN A STATE; AND

17 (2) THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
18 VERIFIES THE VALIDITY OF THAT ADOPTION BY GRANTING, UNDER THE FEDERAL
19 IMMIGRATION AND NATIONALITY ACT, AN IR-3 VISA FOR THE ADOPTEE.

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 (a) and (b) 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 Subsection (d) of this section is derived from former FL § 5-313.1.

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

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

3 In subsection (d)(2) of this section, reference to the "Citizenship and
4 Immigration Services" is substituted for the former, obsolete reference to
5 the "Immigration and Naturalization Service".

6 Defined terms: "Guardianship" § 5-3A-01

7 "Includes" § 1-101

8 "Including" § 1-101

9 "Order" § 5-3A-05

10 "State" § 1-101

11 5-3A-06. PATERNITY.

12 (A) PRESUMPTION.

13 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
14 FATHER IF:

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

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

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

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

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

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

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

28 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

29 (1) A PETITIONER UNDER THIS SUBTITLE SHALL GIVE A COURT NOTICE
30 THAT A MAN WHO IS NOT NAMED IN THE PETITION AND HAS NOT BEEN EXCLUDED
31 AS A FATHER CLAIMS PATERNITY.

1 (2) AFTER A REQUEST OF A PARTY OR CLAIMANT AND BEFORE RULING
2 ON A PETITION FOR GUARDIANSHIP OR ADOPTION UNDER THIS SUBTITLE, A COURT
3 SHALL HOLD A HEARING ON THE ISSUE OF PATERNITY.

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

6 Subsection (a)(7) of this section is new and added to reflect the increasing
7 reliance on the accuracy of genetic testing.

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

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

19 In subsection (b)(2) of this section, the limitation "before ruling on a
20 petition for guardianship or adoption" is added to clarify the period during
21 which a court may act.

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

26 Defined terms: "Child" § 5-3A-01

27 "Guardianship" § 5-3A-01

28 5-3A-07. APPOINTED COUNSEL.

29 (A) PARENT.

30 (1) IN A CASE UNDER THIS SUBTITLE, A COURT SHALL APPOINT AN
31 ATTORNEY TO REPRESENT A PARENT WHO:

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

34 (II) WHEN THE PARENT MUST DECIDE WHETHER TO CONSENT
35 UNDER THIS SUBTITLE, IS STILL A MINOR.

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

4 (B) CHILD.

5 (1) IN A CASE UNDER THIS SUBTITLE, A COURT MAY APPOINT AN
6 ATTORNEY TO REPRESENT A CHILD WHO:

7 (I) HAS A DISABILITY THAT MAKES THE CHILD INCAPABLE OF
8 EFFECTIVELY PARTICIPATING IN THE CASE; OR

9 (II) IS A MINOR.

10 (2) TO DETERMINE WHETHER A DISABILITY MAKES A CHILD INCAPABLE
11 OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS OWN MOTION OR ON
12 MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE CHILD.

13 (C) DUAL REPRESENTATION.

14 AN ATTORNEY OR FIRM:

15 (1) MAY REPRESENT MORE THAN ONE PARTY IN A CASE UNDER THIS
16 SUBTITLE ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT ALLOW; AND

17 (2) MAY NOT REPRESENT A PROSPECTIVE ADOPTIVE PARENT AND
18 PARENT IN THE SAME CASE.

19 (D) COMPENSATION.

20 COUNSEL APPOINTED UNDER THIS SECTION MAY BE COMPENSATED FOR
21 REASONABLE FEES, AS APPROVED BY THE COURT.

22 COMMITTEE NOTE: Subsection (a)(1)(i) of this section is derived from former
23 FL § 5-323(a)(1)(ii), as it related to adoptions.

24 Subsection (a)(1)(ii) of this section is derived from former FL §
25 5-323(a)(1)(iii), as it related to adoptions, and the substance of former FL
26 § 5-301(h).

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

29 Subsection (b)(1)(i) of this section is derived from former FL §
30 5-323(a)(1)(i), as it related to adoptions, and revised to be discretionary,
31 rather than mandatory.

32 Subsection (b)(1)(ii) of this section is new and added to allow appointment
33 of counsel for minors.

34 Subsection (c) of this section is substituted for former FL § 5-323(e), to

1 ensure that dual representation is allowed under this subtitle only if not
2 inconsistent with the Md. Rules of Professional Conduct and, in any event,
3 not for both the prospective adoptive parent and parent.

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

6 In subsection (a) of this section, the former word "natural" is deleted as a
7 nonbiological - i.e., adoptive - parent can allow adoption in the same
8 manner as a biological parent can.

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

14 In subsections (a)(2) and (b) of this section, the newly defined terms
15 "parent" and "child" are substituted for the former word "individual" for
16 consistency with other provisions of this section.

17 Former FL § 5-323(a)(1)(iv), which provided for representation in a
18 contested adoption case, is omitted from this subtitle.

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

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

21 "Child" § 5-3A-01

22 "Disability" § 5-101

23 "Parent" § 5-3A-01

24 5-3A-08. AGREEMENT FOR POSTADOPTION CONTACT.

25 (A) AUTHORIZED.

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

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

30 (II) THE ADOPTEE OR ADOPTIVE PARENT.

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

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

1 (II) THE ADOPTEE OR ADOPTIVE PARENT.

2 (B) CONSTRUCTION OF AGREEMENT.

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

5 (C) DISSEMINATION; REDACTION.

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

8 (1) SHALL PROVIDE A COPY TO EACH PARTY IN A CASE PENDING AS TO
9 THE PROSPECTIVE ADOPTEE UNDER THIS SUBTITLE; AND

10 (2) IF THE AGREEMENT SO PROVIDES, SHALL REDACT IDENTIFYING
11 INFORMATION FROM ALL COPIES.

12 (D) EFFECT OF NONCOMPLIANCE.

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

16 (E) MEDIATION.

17 IF A DISPUTE AS TO AN AGREEMENT MADE UNDER THIS SECTION ARISES, A
18 COURT MAY ORDER THE PARTIES TO ENGAGE IN MEDIATION TO TRY TO RESOLVE
19 THE DISPUTE.

20 (F) ENFORCEMENT.

21 (1) A COURT SHALL ENFORCE A WRITTEN AGREEMENT MADE IN
22 ACCORDANCE WITH THIS SECTION UNLESS ENFORCEMENT IS NOT IN THE
23 ADOPTEE'S BEST INTERESTS.

24 (2) IF A PARTY MOVES TO MODIFY A WRITTEN AGREEMENT MADE IN
25 ACCORDANCE WITH THIS SECTION AND SATISFIES THE COURT THAT MODIFICATION
26 IS JUSTIFIED BECAUSE AN EXCEPTIONAL CIRCUMSTANCE HAS ARISEN AND THE
27 COURT FINDS MODIFICATION TO BE IN AN ADOPTEE'S BEST INTERESTS, THE COURT
28 MAY MODIFY THE AGREEMENT.

29 COMMITTEE NOTE: This section is new and added to create a formal
30 procedure for agreements as to postadoption visits.

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

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

33 "Guardianship" § 5-3A-01

34 "Identifying information " § 5-3A-01

1 "Parent" § 5-3A-01

2 5-3A-09. COSTS.

3 A COURT MAY ASSIGN AMONG THE PARTIES TO A CASE UNDER THIS SUBTITLE,
4 AS THE COURT CONSIDERS APPROPRIATE, COUNSEL FEES AND THE COST OF
5 TESTING UNDER § 5-3A-06 OF THIS SUBTITLE.

6 COMMITTEE NOTE: This section is derived from the second sentence of
7 former FL § 5-323(d) and revised as a separate provision stating expressly
8 that "cost" is not limited to counsel fees but covers the newly referenced
9 "testing" fees.

10 5-3A-10. APPEAL.

11 A PARTY TO A CASE UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF
12 SPECIAL APPEALS FROM AN INTERLOCUTORY OR FINAL ORDER.

13 COMMITTEE NOTE: This section is derived from former FL § 5-330.

14 5-3A-11. RESERVED.

15 5-3A-12. RESERVED.

16 PART II. GUARDIANSHIP PROCEEDING.

17 5-3A-13. PETITION.

18 (A) PETITIONER.

19 ONLY A CHILD PLACEMENT AGENCY MAY PETITION FOR GUARDIANSHIP UNDER
20 THIS SUBTITLE.

21 (B) CHILD.

22 A COURT MAY GRANT GUARDIANSHIP UNDER THIS SUBTITLE ONLY FOR A
23 CHILD.

24 (C) CONTENTS.

25 A PETITIONER SHALL ATTACH TO A PETITION:

26 (1) ALL WRITTEN CONSENTS FOR THE GUARDIANSHIP THAT THE
27 PETITIONER HAS; AND

28 (2) IF APPLICABLE:

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

1 (II) CERTIFICATION THAT THE GUARDIANSHIP OR
2 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS.

3 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
4 5-317(b).

5 Subsection (b) of this section is derived from former FL § 5-307(b).

6 Subsection (c) of this section is new and added to mandate inclusion of the
7 requisite consents and other documentation.

8 In subsection (a) of this section, the former authority for a child to petition
9 is deleted.

10 Defined terms: "Child" § 5-3A-01

11 "Child placement agency" § 5-101

12 "Guardianship" § 5-3A-01

13 "State" § 1-101

14 5-3A-14. NOTICE OF FILING.

15 (A) REQUIREMENT.

16 WITHIN 5 DAYS AFTER A PETITION FOR GUARDIANSHIP OF A CHILD IS FILED
17 WITH A COURT, THE CLERK SHALL SEND A COPY OF THE PETITION AND NOTICE OF
18 FILING TO:

19 (1) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT WAIVED THE
20 RIGHT TO NOTICE; AND

21 (2) EACH LIVING PARENT'S ATTORNEY OF RECORD.

22 (B) METHOD.

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

24 (C) PARENTAL ADDRESS.

25 NOTICE TO A PARENT UNDER THIS SECTION SHALL BE SENT TO A PARENT'S
26 LAST ADDRESS KNOWN TO THE COURT.

27 COMMITTEE NOTE: This section is new and added to state an express duty
28 for notice by a clerk of court.

29 Defined terms: "Child" § 5-3A-01

30 "Guardianship" § 5-3A-01

31 "Parent" § 5-3A-01

1 5-3A-15. ORDER TO SHOW CAUSE.

2 (A) REQUIREMENT.

3 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO GUARDIANSHIP OF A CHILD, A
4 PETITIONER SHALL SERVE THE ORDER ON EACH OF THE CHILD'S LIVING PARENTS
5 WHO HAS NOT CONSENTED TO THE GUARDIANSHIP.

6 (B) METHOD.

7 SERVICE UNDER THIS SECTION SHALL BE BY:

8 (1) PERSONAL SERVICE; OR

9 (2) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
10 REQUESTED.

11 (C) PARENTAL ADDRESS.

12 SERVICE ON A PARENT UNDER THIS SECTION SHALL BE ATTEMPTED AT THE
13 PARENT'S LAST ADDRESS KNOWN TO THE PETITIONER.

14 (D) PUBLICATION.

15 (1) IF A COURT IS SATISFIED, BY AFFIDAVIT OR TESTIMONY, THAT,
16 AFTER REASONABLE EFFORTS IN GOOD FAITH, A PETITIONER COULD NOT IDENTIFY
17 A PARENT OR COULD NOT EFFECT SERVICE ON A PARENT, THE COURT SHALL ORDER
18 SERVICE THROUGH NOTICE BY PUBLICATION AS TO THAT PARENT.

19 (2) NOTICE UNDER THIS SUBSECTION SHALL CONSIST OF
20 SUBSTANTIALLY THE FOLLOWING STATEMENT:

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

22 "YOU ARE HEREBY NOTIFIED THAT A GUARDIANSHIP CASE HAS BEEN FILED IN
23 THE CIRCUIT COURT FOR (COUNTY NAME), CASE NO. (NUMBER). ALL PERSONS WHO
24 BELIEVE THEMSELVES TO BE PARENTS OF A (MALE OR FEMALE) CHILD BORN ON
25 (DATE OF BIRTH) IN (CITY, STATE) TO (MOTHER'S AND FATHER'S NAMES AND DATES
26 OF BIRTH) SHALL FILE A WRITTEN RESPONSE. A COPY OF THE PETITION MAY BE
27 OBTAINED FROM THE CLERK'S OFFICE AT (ADDRESS) AND (TELEPHONE NUMBER). IF
28 YOU DO NOT FILE A WRITTEN OBJECTION BY (DEADLINE), YOU WILL HAVE AGREED
29 TO THE PERMANENT LOSS OF YOUR PARENTAL RIGHTS TO THIS CHILD."

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

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

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

1 (4) THE DEPARTMENT MAY CHARGE A PETITIONER A REASONABLE FEE
2 TO COVER THE COST OF POSTING.

3 COMMITTEE NOTE: Subsection (a) of this section is derived from part of
4 former FL § 5-322(a) (3) and , as it related to guardianship, (1)(i).

5 Subsection (b) of this section is substituted for the former reference to
6 "both certified mail and private process" in former FL § 5-322(c)(2).

7 Subsection (c) of this section is derived from part of former FL §
8 5-322(a)(3).

9 Subsection (d)(1), (2), and (3)(i) of this section is derived from former FL §
10 5-322(c)(1) and (2).

11 Subsection (d)(3)(ii) and (4) of this section is new and added to afford an
12 additional means of notice by publication on a website at a reasonable cost.

13 In subsection (d)(1) of this section, reference to "reasonable efforts in good
14 faith" is added.

15 Also in subsection (d)(1) of this section, the former limitation "[i]f the child
16 has not been adjudicated to be a child in need of assistance in a prior
17 juvenile proceeding" is omitted as unnecessary in light of the scope of this
18 subtitle under new § 5-3A-02(a).

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

20 Defined terms: "Child" § 5-3A-01

21 "Department" § 5-101

22 "County" § 1-101

23 "Guardianship" § 5-3A-01

24 "Parent" § 5-3A-01

25 5-3A-16. INVESTIGATION.

26 IN ADDITION TO ANY INVESTIGATION REQUIRED UNDER § 5-3A-21 OF THIS
27 SUBTITLE, BEFORE RULING ON A GUARDIANSHIP PETITION, A COURT MAY ORDER
28 ANY INVESTIGATION THAT THE COURT CONSIDERS NECESSARY.

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

31 Defined term: "Guardianship" § 5-3A-01

32 5-3A-17. TIME LIMITS.

33 (A) MAXIMUM LIMIT.

1 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COURT SHALL RULE ON A
2 GUARDIANSHIP PETITION UNDER THIS SUBTITLE WITHIN 180 DAYS AFTER THE
3 PETITION IS FILED.

4 (B) MINIMUM LIMIT.

5 A COURT MAY NOT ENTER A FINAL ORDER FOR GUARDIANSHIP UNDER THIS
6 SUBTITLE UNTIL THE LATER OF EXPIRATION OF THE TIME FOR:

7 (1) REVOCATION OF CONSENT; OR

8 (2) THE FILING OF A NOTICE OF OBJECTION.

9 COMMITTEE NOTE: This section is derived from former FL §§ 5-317(d) and
10 5-324(2), as they related to guardianship.

11 Defined term: "Guardianship" § 5-3A-01

12 5-3A-18. AUTHORITY TO GRANT GUARDIANSHIP.

13 (A) CONSENT OR BEST INTERESTS.

14 A COURT MAY GRANT A GUARDIANSHIP OF A CHILD ONLY IF:

15 (1) EACH OF THE CHILD'S LIVING PARENTS CONSENTS:

16 (I) IN WRITING; OR

17 (II) BY FAILURE TO TIMELY FILE NOTICE OF OBJECTION AFTER
18 BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS SUBTITLE;

19 (2) AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY OF A STATE OR
20 OTHER JURISDICTION HAS GRANTED A PERSON OTHER THAN A PARENT THE POWER
21 TO CONSENT TO ADOPTION AND THE PERSON CONSENTS; OR

22 (3) IN ACCORDANCE WITH § 5-3A-21 OF THIS SUBTITLE, THE COURT
23 ORDERS GUARDIANSHIP WITHOUT CONSENT OTHERWISE REQUIRED UNDER THIS
24 SECTION.

25 (B) CONDITIONAL CONSENT.

26 A PERSON:

27 (1) MAY CONDITION CONSENT OR ACQUIESCENCE ON ADOPTION INTO A
28 SPECIFIC FAMILY THAT A CHILD PLACEMENT AGENCY HAS APPROVED FOR THE
29 PLACEMENT; BUT

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

32 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL
33 §§ 5-317(c)(2) and 5-322(d)(1), as they related to guardianship under this

1 subtitle.

2 Subsection (b) of this section is new and added to provide expressly for
3 conditional consent or acquiescence. The requirement for approval by a
4 child placement agency should not be construed to require approval before
5 entry of a guardianship order.

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

9 Defined terms: "Child" § 5-3A-01

10 "Child placement agency" § 5-101

11 "Guardianship" § 5-3A-01

12 "Parent" § 5-3A-01

13 "Person" § 1-101

14 "State" § 1-101

15 5-3A-19. CONSENT.

16 (A) CONTENTS.

17 (1) CONSENT OF A PARENT MAY INCLUDE A WAIVER OF THE RIGHT TO
18 NOTICE OF:

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

20 (II) FURTHER PROCEEDINGS UNDER THIS SUBTITLE.

21 (2) CONSENT TO GUARDIANSHIP IS NOT VALID UNLESS THE CONSENT:

22 (I) IS GIVEN AFTER THE CHILD FOR WHOM GUARDIANSHIP IS
23 SOUGHT IS BORN;

24 (II) IS GIVEN IN A LANGUAGE THAT THE PARTY UNDERSTANDS;

25 (III) IF GIVEN IN A LANGUAGE OTHER THAN ENGLISH:

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

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

29 (IV) CONTAINS AN EXPRESS NOTICE OF:

1 1. THE RIGHT TO REVOKE CONSENT, AT ANY TIME WITHIN 30
2 DAYS AFTER THE PERSON SIGNS THE CONSENT, UNLESS THE REVOCATION IS
3 BARRED UNDER SUBSECTION (B)(2) OF THIS SECTION;

4 2. THE OBLIGATION OF THE PERSON GIVING CONSENT TO
5 ADVISE THE COURT AND PETITIONER OF EACH CHANGE OF THE UNIT'S OR PERSON'S
6 ADDRESS;

7 3. THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER
8 § 5-3A-42 OF THIS SUBTITLE AND THE SEARCH RIGHTS OF ADOPTEES, PARENTS, AND
9 SIBLINGS UNDER SUBTITLE 4B OF THIS TITLE; AND

10 4. THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-3A-42
11 OF THIS SUBTITLE; AND

12 (V) IS ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL APPOINTED
13 UNDER § 5-3A-07(A) OF THIS SUBTITLE STATING THAT A PARENT WHO IS A MINOR OR
14 HAS A DISABILITY CONSENTS KNOWINGLY AND VOLUNTARILY.

15 (B) REVOCATION PERIOD.

16 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY
17 REVOKE CONSENT TO GUARDIANSHIP AT ANY TIME WITHIN 30 DAYS AFTER THE
18 PERSON SIGNS THE CONSENT.

19 (2) A PARENT MAY NOT REVOKE CONSENT FOR GUARDIANSHIP OF A
20 CHILD IF:

21 (I) IN THE PRECEDING YEAR, THE PARENT HAS REVOKED
22 CONSENT FOR OR FILED A NOTICE OF OBJECTION TO GUARDIANSHIP OF THE CHILD;
23 OR

24 (II) THE CHILD IS AT LEAST 30 DAYS OLD AND CONSENT IS GIVEN
25 BEFORE A JUDGE ON THE RECORD.

26 (C) FAILED CONDITIONAL PLACEMENT.

27 IF A PETITIONER BECOMES AWARE, BEFORE A COURT RULES ON A PETITION,
28 THAT A PERSON'S CONDITION OF CONSENT UNDER § 5-3A-18(B) OF THIS SUBTITLE
29 CANNOT BE FULFILLED, THE PETITIONER PROMPTLY SHALL:

30 (1) FILE NOTICE WITH THE COURT;

31 (2) GIVE NOTICE TO ALL OF THE OTHER PARTIES; AND

32 (3) (I) IF THE PERSON ENTERS INTO A NEW CONSENT, FILE THE
33 CONSENT WITH THE COURT; OR

34 (II) IF THE PERSON FAILS TO ENTER INTO A NEW CONSENT,
35 DISMISS THE PETITION.

- 1 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former
2 FL § 5-319(d)(1) and, as it related to guardianship, § 5-322(a)(2).
- 3 Subsection (a)(2)(i) of this section is derived from former FL § 5-324(1) and
4 revised to preclude valid consent, rather than bar entry of an order.
- 5 Subsection (a)(2)(ii) and (iii) of this section is new and added to ensure that
6 consent is given knowingly, by ensuring that the individual consenting
7 understands the consent being given. As to interpreters in connection with
8 on the record consent, see Md. Rule 16-819.
- 9 Subsection (a)(2)(iv)1, 3, and 4 of this section is derived from former FL §
10 5-314(a), as it related to guardianship under this subtitle, and revised to
11 incorporate the substance of the referenced former FL § 5-317.
- 12 Subsection (a)(2)(iv)2 of this section is new and added to ensure that
13 persons giving conditional consent can be located if a condition of the
14 consent cannot be fulfilled.
- 15 Subsection (a)(2)(v) of this section is derived from former FL § 5-314(b), as
16 it related to guardianship under this subtitle, and the substance of former
17 FL § 5-101(h) and revised to apply to disabled, as well as minor, parents.
- 18 Subsection (b)(1) of this section is derived from former FL § 5-317(e).
- 19 Subsection (b)(2)(i) of this section is new and added to bar repeated
20 thwarting of guardianship.
- 21 Subsection (b)(2)(ii) of this section is new and added to preclude revocation
22 of timely consent given on-the-record.
- 23 Subsection (c) of this section is new and added to reflect the addition of
24 provisions for conditional consent in the referenced new § 5-3A-18(b).
- 25 In subsection (a) of this section, the former reference to a "natural" parent
26 is omitted, to reflect that the parental rights of a nonbiological - i.e.,
27 adoptive - parent can be terminated in the same manner as a biological
28 parent's can.
- 29 As to "minor", *see* Art. 1, § 24 of the Code.
- 30 Defined terms: "Child" § 5-3A-01
- 31 "Disability" § 5-101
- 32 "Guardianship" § 5-3A-01
- 33 "Includes" § 1-101
- 34 "Including" § 1-101
- 35 "Parent" § 5-3A-01

1 "Person" § 1-101

2 5-3A-20. GRANT OF GUARDIANSHIP - CONSENSUAL.

3 (A) AUTHORITY.

4 IF ALL CONSENTS FOR GUARDIANSHIP OF A CHILD HAVE BEEN GIVEN IN
5 ACCORDANCE WITH THIS SUBTITLE, A COURT MAY ENTER AN ORDER FOR
6 GUARDIANSHIP.

7 (B) NOTICE.

8 (1) WITHIN 5 DAYS AFTER ENTRY OF AN ORDER UNDER THIS SECTION, A
9 COURT SHALL NOTIFY EACH PARTY TO THE CASE WHO HAS NOT WAIVED THE RIGHT
10 TO NOTICE.

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

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

14 COMMITTEE NOTE: This section is new and added to set forth the manner of
15 disposing of consensual guardianships.

16 Defined terms: "Child" § 5-3A-01

17 "Guardianship" § 5-3A-01

18 5-3A-21. GRANT OF GUARDIANSHIP -NONCONSENSUAL.

19 (A) PRIOR TERMINATION OR ABANDONMENT.

20 A COURT MAY GRANT GUARDIANSHIP OF A CHILD WITHOUT CONSENT
21 OTHERWISE REQUIRED UNDER THIS SUBTITLE IF THE COURT FINDS, BY CLEAR AND
22 CONVINCING EVIDENCE, THAT:

23 (1) THE PARENT'S RIGHTS AS TO THE CHILD HAVE BEEN TERMINATED
24 IN ACCORDANCE WITH LAW; OR

25 (2) AFTER A THOROUGH INVESTIGATION BY A CHILD PLACEMENT
26 AGENCY:

27 (I) THE IDENTITIES OF THE CHILD'S PARENTS ARE UNKNOWN;

28 (II) THE CHILD HAS BEEN IN THE CUSTODY OF THE CHILD
29 PLACEMENT AGENCY FOR AT LEAST 60 DAYS DURING WHICH NO ONE HAS CLAIMED
30 TO BE THE CHILD'S PARENT; AND

31 (III) GUARDIANSHIP IS IN THE CHILD'S BEST INTERESTS.

32 (B) CUSTODIAN.

1 (1) A COURT MAY GRANT GUARDIANSHIP OF A CHILD WITHOUT
2 PARENTAL CONSENT OTHERWISE REQUIRED UNDER THIS SUBTITLE, IF THE COURT
3 FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

4 (I) THE CHILD HAS LIVED WITH A PROSPECTIVE ADOPTIVE
5 PARENT FOR AT LEAST 180 DAYS;

6 (II) THE PARENT HAS NOT HAD CUSTODY OF THE CHILD FOR AT
7 LEAST 1 YEAR;

8 (III) THE CHILD HAS SIGNIFICANT EMOTIONAL TIES TO AND
9 FEELINGS FOR THE PROSPECTIVE ADOPTIVE PARENT; AND

10 (IV) THE PARENT:

11 1. HAS NOT MAINTAINED MEANINGFUL CONTACT WITH THE
12 CHILD WHILE THE PETITIONER HAD CUSTODY, NOTWITHSTANDING AN
13 OPPORTUNITY TO DO SO;

14 2. HAS FAILED TO CONTRIBUTE TO THE CHILD'S PHYSICAL
15 CARE AND SUPPORT, NOTWITHSTANDING THE ABILITY TO DO SO;

16 3. HAS SUBJECTED THE CHILD TO:

17 A. CHRONIC ABUSE;

18 B. CHRONIC AND LIFE-THREATENING NEGLECT;

19 C. SEXUAL ABUSE; OR

20 D. TORTURE;

21 4. HAS BEEN CONVICTED OF ABUSE OF ANY CHILD OF THE
22 PARENT;

23 5. HAS BEEN CONVICTED, IN ANY STATE OR ANY COURT OF
24 THE UNITED STATES, OF:

25 A. A CRIME OF VIOLENCE AGAINST:

26 I. A MINOR OFFSPRING OF THE PARENT;

27 II. THE CHILD; OR

28 III. ANOTHER PARENT OF THE CHILD; OR

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

31 6. HAS, OTHER THAN BY CONSENT, LOST PARENTAL RIGHTS
32 TO A SIBLING OF THE CHILD.

1 (2) IF A COURT FINDS THAT AN ACT OR CIRCUMSTANCE LISTED IN
2 PARAGRAPH (1)(IV)3 OR 5 OF THIS SUBSECTION EXISTS, THE COURT SHALL MAKE A
3 SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, WHETHER RETURN OF THE
4 CHILD TO THE CUSTODY OF THE PARENT POSES AN UNACCEPTABLE RISK TO THE
5 CHILD'S SAFETY.

6 (3) IN RULING UNDER THIS SUBSECTION, A COURT SHALL GIVE
7 PRIMARY CONSIDERATION TO THE HEALTH AND SAFETY OF THE CHILD IN
8 DETERMINING THE CHILD'S BEST INTERESTS.

9 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL
10 §§ 5-313(a)(1) and (b) and 5-322(d) and the introductory clause of §
11 5-311(a).

12 Subsection (b) of this section is new and added to allow a court to grant
13 guardianship notwithstanding a parent's refusal to consent.

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

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

18 "Child" § 5-3A-01

19 "Child placement agency" § 5-101

20 "Crime of violence" § 5-101

21 "Guardianship" § 5-3A-01

22 "Parent" § 5-3A-01

23 "State" § 1-101

24 "Support" § 1-101

25 5-3A-22. CONTENTS OF ORDER.

26 IN AN ORDER ENTERED UNDER THIS SUBTITLE, A COURT SHALL DOCUMENT:

27 (1) THE RESPONSE BY EACH PARTY TO THE GUARDIANSHIP PETITION;
28 AND

29 (2) THE WAIVER, IF ANY, OF A PARENT TO NOTICE OF FURTHER
30 PROCEEDINGS.

31 COMMITTEE NOTE: Item (1) of this section is new and added to provide a
32 record of the responses.

33 Item (2) of this section is derived from former FL § 5-319(d)(2).

34 Defined terms: "Guardianship" § 5-3A-01

1 "Parent" § 5-3A-01

2 5-3A-23. EFFECTS OF ORDER FOR GUARDIANSHIP.

3 (A) PARENT-CHILD RELATIONSHIP.

4 AN ORDER FOR GUARDIANSHIP OF AN INDIVIDUAL:

5 (1) EXCEPT AS PROVIDED IN § 5-3A-24 OF THIS SUBTITLE, § 4-414 OF THE
6 ESTATES AND TRUSTS ARTICLE, AND § 2-123 OF THE REAL PROPERTY ARTICLE,
7 TERMINATES A PARENT'S DUTIES, OBLIGATIONS, AND RIGHTS TOWARD THE
8 INDIVIDUAL;

9 (2) ELIMINATES THE NEED FOR NOTICE TO A PARENT AS TO THE FILING
10 OF AN ADOPTION PETITION;

11 (3) ELIMINATES THE NEED FOR FURTHER CONSENT OF A PARENT TO
12 ADOPTION OF THE INDIVIDUAL; AND

13 (4) GRANTS GUARDIANSHIP OF THE INDIVIDUAL TO A CHILD
14 PLACEMENT AGENCY.

15 (B) GUARDIAN.

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

18 (2) UNLESS A COURT ORDERS OTHERWISE AND SUBJECT TO REVIEW BY
19 THE COURT, A CHILD'S GUARDIAN MAY MAKE ALL DECISIONS AFFECTING THE
20 CHILD'S EDUCATION, HEALTH, AND WELFARE, INCLUDING CONSENTING TO:

21 (I) ADOPTION OF THE CHILD;

22 (II) APPLICATION BY THE CHILD FOR A DRIVER'S LICENSE;

23 (III) ENLISTMENT BY THE CHILD IN THE ARMED FORCES;

24 (IV) MARRIAGE OF THE CHILD; AND

25 (V) MEDICAL, PSYCHIATRIC, OR SURGICAL TREATMENT.

26 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
27 5-317(f).

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

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

32 In subsection (a)(1) and (2) of this section, the former word "natural" is

1 omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive
2 - parent can be terminated in the same manner as a biological parent's
3 can.

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

8 Defined terms: "Child" § 5-3A-01

9 "Child placement agency" § 5-101

10 "Guardianship" § 5-3A-01

11 "Includes" § 1-101

12 "Including" § 1-101

13 "Parent" § 5-3A-01

14 5-3A-24. GUARDIANSHIP REVIEW.

15 (A) REPORT.

16 (1) A CHILD PLACEMENT AGENCY SHALL FILE A WRITTEN REPORT WITH
17 A COURT WITH JURISDICTION OVER A CHILD WHENEVER:

18 (I) THE CHILD PLACEMENT AGENCY FAILS TO PLACE THE CHILD
19 FOR ADOPTION WITH A PREADOPTIVE PARENT, AS DEFINED IN § 3-823(I)(1) OF THE
20 COURTS ARTICLE:

21 1. WITHIN 270 DAYS AFTER BEING AWARDED
22 GUARDIANSHIP; OR

23 2. WITHIN 180 DAYS AFTER PERMANENTLY REMOVING THE
24 CHILD FROM ANOTHER PLACEMENT; OR

25 (II) A COURT DOES NOT ENTER A FINAL ORDER OF ADOPTION
26 WITHIN 2 YEARS AFTER THE PLACEMENT.

27 (2) A REPORT UNDER THIS SUBSECTION SHALL STATE EACH REASON
28 FOR THE DELAY IN PLACEMENT OR ADOPTION.

29 (B) NOTICE.

30 (1) WHENEVER A CHILD PLACEMENT AGENCY FILES A REPORT UNDER
31 THIS SECTION, THE CHILD PLACEMENT AGENCY SHALL MAIL NOTICE OF THE
32 CHILD'S STATUS:

33 (I) TO EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
34 WAIVED THE RIGHT TO NOTICE; AND

1 (II) IF A COURT APPOINTED COUNSEL FOR THE CHILD UNDER THIS
2 SUBTITLE, TO THE CHILD'S LAST ATTORNEY OF RECORD.

3 (2) A WAIVER OF RIGHTS UNDER THIS SUBSECTION IS NOT VALID
4 UNLESS THE WAIVER APPEARS EXPRESSLY IN:

5 (I) THE PARENT'S CONSENT TO GUARDIANSHIP; AND

6 (II) THE GUARDIANSHIP ORDER.

7 (C) HEARING.

8 (1) WHENEVER A COURT RECEIVES A REPORT UNDER THIS SECTION,
9 THE COURT SHALL HOLD A HEARING TO:

10 (I) REVIEW THE PROGRESS THAT THE CHILD PLACEMENT AGENCY
11 HAS MADE TOWARD ADOPTION OF THE CHILD; AND

12 (II) TAKE ALL ACTIONS THAT THE COURT CONSIDERS TO BE IN THE
13 CHILD'S BEST INTERESTS.

14 (2) EACH YEAR AFTER A HEARING UNDER PARAGRAPH (1) OF THIS
15 SUBSECTION UNTIL THE COURT'S JURISDICTION TERMINATES, THE COURT SHALL
16 HOLD ANOTHER REVIEW HEARING.

17 COMMITTEE NOTE: This section is new language derived from former FL §
18 5-319.

19 In subsection (a)(1)(i)1 of this section, reference to "270 days" is substituted
20 for the former 6-month period, to extend the period and to allow easier
21 calculation of the period. Similarly, in subsection (a)(1)(i)2 of this section, a
22 reference to "days" is substituted for the former reference to a 2-month
23 period, although the number of days is increased to 180.

24 Defined terms: "Child" § 5-3A-01

25 "Child placement agency" § 5-101

26 "Guardianship" § 5-3A-01

27 "Parent" § 5-3A-01

28 5-3A-25. FAILED CONDITIONAL CONSENT DURING GUARDIANSHIP.

29 IF A PETITIONER BECOMES AWARE, AFTER A COURT RULES ON A PETITION,
30 THAT A GOVERNMENTAL UNIT'S OR PERSON'S CONDITION OF CONSENT UNDER §
31 5-3A-18(B) OF THIS SUBTITLE CANNOT BE FULFILLED, THE PETITIONER PROMPTLY
32 SHALL:

33 (1) FILE NOTICE WITH THE COURT;

34 (2) GIVE NOTICE TO ALL OF THE OTHER PARTIES; AND

1 (3) (I) IF THE UNIT OR PERSON ENTERS INTO A NEW CONSENT, FILE
2 THE CONSENT WITH THE COURT;

3 (II) IF THE UNIT OR PERSON FAILS TO ENTER INTO A NEW
4 CONSENT, ASK THE COURT TO SET ASIDE THE GUARDIANSHIP ORDER; OR

5 (III) IF THE UNIT OR PERSON CANNOT BE LOCATED AFTER
6 EXHAUSTION OF THE SERVICE REQUIREMENTS UNDER § 5-3A-15 OF THIS SUBTITLE,
7 ASK THE COURT TO DETERMINE WHETHER IT IS IN THE CHILD'S BEST INTERESTS TO
8 CONTINUE THE GUARDIANSHIP DESPITE THE INABILITY TO FULFILL THE
9 CONDITION.

10 COMMITTEE NOTE: This section is new and added to reflect the addition of
11 provisions for conditional consent in the referenced new § 5-3A-18(b).

12 Defined terms: "Child" § 5-3A-01

13 "Guardianship" § 5-3A-01

14 "Person" § 1-101

15 5-3A-26. TERMINATION OF GUARDIANSHIP.

16 (A) AGE LIMIT.

17 UNLESS TERMINATED SOONER, A COURT RETAINS JURISDICTION OVER A CHILD
18 UNTIL THE CHILD ATTAINS 18 YEARS OF AGE.

19 (B) ADOPTION ORDER.

20 AN ORDER FOR ADOPTION OF A CHILD TERMINATES THE CHILD'S
21 GUARDIANSHIP CASE.

22 COMMITTEE NOTE: This section is derived from former FL § 5-319(i).

23 Defined terms: "Child" § 5-3A-01

24 "Guardianship" § 5-3A-01

25 5-3A-27. RESERVED.

26 5-3A-28. RESERVED.

27 PART III. ADOPTION.

28 5-3A-29. PETITIONER.

29 (A) AGE.

30 ANY ADULT MAY PETITION A COURT FOR AN ADOPTION UNDER THIS SUBTITLE.

31 (B) MINIMUM PERIOD OF PLACEMENT.

1 A PETITIONER MAY PETITION FOR ADOPTION OF A CHILD 180 DAYS OR MORE
2 AFTER A CHILD PLACEMENT AGENCY PLACES THE CHILD WITH THE PETITIONER.

3 (C) MARITAL STATUS.

4 (1) IF A PETITIONER UNDER THIS SECTION IS MARRIED, THE
5 PETITIONER'S SPOUSE SHALL JOIN IN THE PETITION UNLESS THE SPOUSE:

6 (I) IS SEPARATED FROM THE PETITIONER UNDER A
7 CIRCUMSTANCE THAT GIVES THE PETITIONER A GROUND FOR ANNULMENT OR
8 DIVORCE; OR

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

10 (2) IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY
11 OF A FINAL ORDER, THE PETITIONER SHALL AMEND THE PETITION ACCORDINGLY.

12 COMMITTEE NOTE: Subsection (a) of this section is derived from FL §
13 5-309(a).

14 Subsection (b) of this section is new.

15 Subsection (c) of this section is derived from former FL § 5-315(a)(2) and
16 (b).

17 In subsection (a) of this section, the former word "decree" is deleted.
18 Similarly, in subsection (c)(2) of this section, the word "order" is
19 substituted for the former, more archaic "decree".

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

21 Defined terms: "Child" § 5-3A-01

22 "Child placement agency" § 5-101

23 5-3A-30. NOTICE OF FILING.

24 A PETITIONER FOR ADOPTION UNDER THIS SUBTITLE SHALL GIVE NOTICE OF
25 THE FILING OF AN ADOPTION PETITION TO EACH GOVERNMENTAL UNIT OR PERSON
26 WHOSE CONSENT IS REQUIRED.

27 COMMITTEE NOTE: This section is derived from former FL § 5-322(a)(1)(i).

28 Defined term: "Person" § 1-101

29 5-3A-31. REPORT.

30 BEFORE A COURT ENTERS AN ORDER FOR ADOPTION OF A CHILD UNDER THIS
31 SUBTITLE, A CHILD PLACEMENT AGENCY SHALL FILE A WRITTEN REPORT ON:

32 (1) THE SUITABILITY OF THE PETITIONER TO ADOPT THE CHILD; AND

33 (2) THE RELATIONSHIP BETWEEN THE PETITIONER AND CHILD.

1 COMMITTEE NOTE: This section is new and added to reflect requirements
2 under Department regulations, in COMAR 07.05.03.15.

3 Defined terms: "Child" § 5-3A-01

4 "Child placement agency" § 5-101

5 5-3A-32. HEARING ON ADOPTION PETITION.

6 A COURT SHALL HOLD A HEARING BEFORE ENTERING AN ORDER FOR
7 ADOPTION UNDER THIS SUBTITLE.

8 COMMITTEE NOTE: This section is derived from former FL § 5-324.1.

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

10 5-3A-33. TIME LIMITS.

11 A COURT MAY NOT ENTER AN ORDER FOR ADOPTION UNDER THIS SUBTITLE
12 UNTIL 30 DAYS AFTER ENTRY OF A GUARDIANSHIP ORDER UNDER THIS SUBTITLE.

13 COMMITTEE NOTE: This section is derived from former FL § 5-324(2).

14 Defined term: "Guardianship" § 5-3A-01

15 5-3A-34. AUTHORITY TO GRANT ADOPTION.

16 (A) CONSENT.

17 A COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER THIS
18 SUBTITLE ONLY IF:

19 (1) THE CHILD PLACEMENT AGENCY CONSENTS; AND

20 (2) FOR A CHILD WHO IS AT LEAST 10 YEARS OLD, THE CHILD CONSENTS.

21 (B) WITHHOLDING CONSENT.

22 A CHILD PLACEMENT AGENCY MAY NOT WITHHOLD CONSENT FOR THE SOLE
23 REASON THAT THE RACE, RELIGION, COLOR, OR NATIONAL ORIGIN OF A
24 PROSPECTIVE ADOPTIVE PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.

25 (C) REVOCATION.

26 (1) A CHILD PLACEMENT AGENCY MAY REVOKE CONSENT AT ANY TIME
27 WITHIN THE LATER OF:

28 (I) 14 DAYS AFTER THE CHILD PLACEMENT AGENCY SIGNS THE
29 CONSENT; OR

30 (II) 14 DAYS AFTER THE ADOPTION PETITION IS FILED.

1 (2) A CHILD WHO IS AT LEAST 10 YEARS OLD MAY REVOKE CONSENT AT
2 ANY TIME BEFORE A COURT ENTERS AN ORDER OF ADOPTION UNDER THIS
3 SUBTITLE.

4 COMMITTEE NOTE: This section is derived from former FL § 5-311(b) and
5 (c)(1).

6 In subsection (a)(1) of this section, the former reference to the "executive
7 head" of a child placement agency "that has been awarded guardianship" is
8 deleted, for brevity. Similarly, in subsection (b) of this section, the former
9 reference to an agency's "executive head" is deleted.

10 Subsection (b) of this section is revised to include "color" and "national
11 origin" but delete "where to do so would be contrary to the best interests of
12 the child" to conform to the federal law.

13 In subsection (c)(1) of this section, references to a 14-day period are
14 substituted for the former 30-day period.

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

16 "Child" § 5-3A-01

17 "Child placement agency" § 5-101

18 "Parent" § 5-3A-01

19 5-3A-35. ORDER FOR ADOPTION.

20 (A) EFFECT ON PARENT-CHILD RELATIONSHIP.

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

23 (2) EXCEPT AS PROVIDED IN § 2-123 OF THE REAL PROPERTY ARTICLE,
24 AFTER A COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS SUBTITLE:

25 (I) THE ADOPTEE:

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

28 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
29 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
30 ADOPTIVE PARENT;

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

32 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
33 TO THE ADOPTEE; AND

1 MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A COURT SHALL DISMISS THE
2 PETITION.

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

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

7 5-3A-37. RESERVED.

8 5-3A-38. RESERVED.

9 PART IV. ACCESS TO ADOPTION RECORDS.

10 5-3A-39. MEDICAL AND PSYCHOLOGICAL INFORMATION.

11 (A) COMPILATION OF ADOPTEE'S RECORDS OR HISTORY.

12 A CHILD PLACEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO
13 COMPILE AND MAKE AVAILABLE TO A PROSPECTIVE ADOPTIVE PARENT:

14 (1) ALL OF THE PROSPECTIVE ADOPTEE'S MEDICAL AND PSYCHIATRIC
15 RECORDS THAT THE AGENCY HAS; OR

16 (2) A COMPREHENSIVE MEDICAL AND PSYCHIATRIC HISTORY OF THE
17 PROSPECTIVE ADOPTEE.

18 (B) COMPILATION OF PARENTAL HISTORY.

19 ON REQUEST OF A PROSPECTIVE ADOPTIVE PARENT, A CHILD PLACEMENT
20 AGENCY SHALL MAKE REASONABLE EFFORTS TO COMPILE A PERTINENT MEDICAL
21 AND PSYCHIATRIC HISTORY OF EACH OF THE PROSPECTIVE ADOPTEE'S PARENTS, IF
22 AVAILABLE TO THE AGENCY, AND TO MAKE THE HISTORY AVAILABLE TO THE
23 PROSPECTIVE ADOPTIVE PARENT.

24 (C) LATER RECEIVED INFORMATION.

25 IF, AFTER ADOPTION, A CHILD PLACEMENT AGENCY RECEIVES MEDICAL OR
26 PSYCHOLOGICAL INFORMATION ABOUT THE ADOPTEE OR ADOPTEE'S FORMER
27 PARENT, THE AGENCY SHALL MAKE REASONABLE EFFORTS TO MAKE THE
28 INFORMATION AVAILABLE TO THE ADOPTIVE PARENT.

29 (D) EXCLUSION OF IDENTIFYING INFORMATION.

30 A MEDICAL OR PSYCHIATRIC HISTORY COMPILED UNDER THIS SECTION MAY
31 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 records are added to ensure inclusion of such information as available,
7 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, 2005; OR

31 (2) PENDING ON OCTOBER 1, 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.

6 Defined term: "Child placement agency" § 5-101

7 5-3B-03. STATEMENT OF FINDINGS; PURPOSES.

8 (A) STATEMENT OF FINDINGS.

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

11 (B) PURPOSES.

12 THE PURPOSES OF THIS SUBTITLE ARE TO:

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

15 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
16 THEIR PARENTS;

17 (3) ENSURE ADOPTION ONLY BY INDIVIDUALS FIT FOR THE
18 RESPONSIBILITY;

19 (4) PROTECT PARENTS FROM MAKING HURRIED OR ILL-CONSIDERED
20 AGREEMENTS TO TERMINATE THEIR PARENTAL RIGHTS;

21 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY GIVING THEM
22 INFORMATION ABOUT PROSPECTIVE ADOPTees AND THEIR BACKGROUNDS; AND

23 (6) PROTECT ADOPTIVE PARENTS FROM FUTURE DISTURBANCES OF
24 THEIR RELATIONSHIPS WITH ADOPTees BY FORMER PARENTS.

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

26 In subsection (a) of this section, the former clause "that concern adoption"
27 is deleted from this subtitle as surplusage.

28 In subsection (b)(1) of this section, reference to "timely" provision of
29 "permanent and safe homes ... consistent with [the children's] best
30 interests" is substituted for the former reference to "stable homes that
31 protect ... safety and health", to emphasize the need for prompt resolution
32 of a case in accordance with the "best interests" standard applicable under,
33 e. g., former FL §§ 5-311(b)(2), 5-313(a), (c), and (d)(1) and (3), 5-317(g)(1),
34 5-319(f)(1) and (2) and (g)(1), and 5-323(a)(2).

35 In subsection (b)(2) and (4) of this section, the former word "natural" is
36 omitted, to reflect that the parental rights of a nonbiological - i. e.,

1 adoptive - parent can be terminated in the same manner as a biological
2 parent's can. Similarly, in subsection (b)(6) of this section, the word
3 "former" is substituted for "natural", to encompass all individuals who
4 have at any time previously been a "parent".

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

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

9 "Parent" § 5-3B-01

10 "Prospective adoptee" § 5-3B-01

11 5-3B-04. FOREIGN ORDERS.

12 (A) "ORDER" DEFINED.

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

16 (B) ORDER OF ANOTHER STATE.

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

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

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

23 (C) OTHER FOREIGN ORDERS.

24 AS TO A JURISDICTION OTHER THAN A STATE:

25 (1) AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN
26 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
27 EFFECT AS AN ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS STATE;
28 AND

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

32 (D) CONSTRUCTION.

33 THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL TO
34 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.

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.

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

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

14 "Identifying information" § 5-3B-01

15 "Parent" § 5-3B-01

16 "Prospective adoptee" § 5-3B-01

17 5-3B-08. ASSESSMENT OF COSTS.

18 (A) INDEPENDENT COUNSEL AND COUNSELING.

19 A COURT MAY ORDER AN ADOPTIVE PARENT TO PAY, WHOLLY OR PARTLY,
20 REASONABLE FEES FOR A FORMER PARENT'S:

21 (1) INDEPENDENT COUNSEL; OR

22 (2) ADOPTION COUNSELING OR GUIDANCE FOR A REASONABLE TIME.

23 (B) OTHER COSTS.

24 EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, A COURT MAY
25 ASSIGN AMONG THE PARTIES TO A CASE UNDER THIS SUBTITLE COUNSEL FEES,
26 COUNSELING OR GUIDANCE FEES, AND COSTS OF TESTING UNDER § 5-3B-05 OF THIS
27 SUBTITLE, AS THE COURT CONSIDERS APPROPRIATE.

28 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
29 5-320(b)(1).

30 Subsection (b) of this section is derived from the second sentence of former
31 FL § 5-323(d) and is revised to include costs for testing.

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

33 "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 (c) of this section are derived from former FL §§
13 5-309(a) and 5-315.

14 Subsection (d) of this section is new and added to avoid overlapping cases
15 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 MAY BE OBTAINED
24 FROM THE CLERK'S OFFICE AT (ADDRESS) AND (TELEPHONE NUMBER). IF YOU DO
25 NOT FILE A WRITTEN OBJECTION BY (DEADLINE), YOU WILL HAVE AGREED TO THE
26 PERMANENT LOSS OF YOUR PARENTAL RIGHTS TO THIS CHILD."

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

28 (I) PUBLICATION AT LEAST ONCE IN ONE OR MORE NEWSPAPERS
29 IN GENERAL CIRCULATION IN THE COUNTY WHERE THE PETITION IS FILED OR, IF
30 DIFFERENT, WHERE THE PARENT'S LAST ADDRESS KNOWN TO THE PETITIONER IS
31 LOCATED; AND

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

34 (4) THE DEPARTMENT MAY CHARGE A PETITIONER A REASONABLE FEE
35 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 RULING ON AN ADOPTION PETITION, A COURT MAY ORDER ANY
24 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 STEPPARENT.

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(c)(1) and (g)(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) THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-3B-29 OF
15 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

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:

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, which case
14 shall be governed by the law applicable as if this Act had not become effective.

15 SECTION 5. AND BE IT FURTHER ENACTED, That the publisher of the
16 Annotated Code of Maryland, in consultation with and subject to the approval of the
17 Department of Legislative Services, shall correct, with no further action required by
18 the General Assembly, cross-references and terminology rendered incorrect by this
19 Act or by any other Act of the General Assembly of 2005 that affects provisions
20 enacted by this Act. The publisher shall adequately describe any such correction in an
21 editor's note following the section affected.

22 SECTION 6. AND BE IT FURTHER ENACTED, That the catchlines, captions,
23 and Committee Notes contained in this Act are not law and may not be considered to
24 have been enacted as a part of this Act.

25 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2005.