

CHECKLIST FOR TERMINATION OF PARENTAL RIGHTS
Effective July 1, 2012

_____ This is not a stepparent, relative or adult adoption. (Relative means a person related by blood to the person being adopted within the third degree of consanguinity)

1. Venue

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

2. Report to Court of Intended Placement

_____ Has adoption entity reported to court intended placement of child per § 63.092(1)? (This report is not filed with TPR petition in TPR file; instead filed in separate file by itself)

3. Petition Requirements § 63.087(4)

- a. _____ Filed after the birth of the minor.
- b. _____ Filed by a parent or person with physical custody of the minor, or
- c. _____ If filed by adoption entity, the persons who have physical or legal custody have executed a consent to adoption & _____ consented in writing to the adoption entity filing the petition.
- d. _____ Case style is “In the Matter of the Termination of Parental Rights for the Proposed Adoption of a Minor Child.”
- e. _____ Minor’s name, gender, date of birth, place of birth, and all names by which minor has been known (except the prospective adoptive name).
- f. _____ All information required by UCCJEA (**§ 61.522**): **§§ 63.087(4)(e)2, 63.135**
- g. _____ All information required by Indian Child Welfare Act (25 USCA 1901 et. seq.),**§ 63.087(4)(e)2**
- h. _____ Grounds under § 63.089 upon which petition is based.
- i. _____ Name, address, and phone number of adoption entity.
- j. _____ Name, address, and phone number of division of the circuit court.
- k. _____ Certificate of compliance with requirements regarding notice to grandparents **§ 63.0425**.
- l. _____ Signed under oath by petitioner

4. Consent

A. _____ Original Consent to Adoption, affidavit of non-paternity, or diligent search for each person required under § 63.062(1) must be attached to Petition. **§ 63.087(4)(d)**.

Consents are required from the following persons:

1. ____ Minor if over 12 years of age
2. ____ Birth mother
3. ____ Any person lawfully entitled to custody of the minor, if required by the court
4. ____ The court with jurisdiction of the minor if the person with physical custody does not have authority to consent.
5. ____ Birth father only if: (§ 63.062(1) & (2)(a)):
 - a. ____ the child was born or conceived while the mother and father were married
 - b. ____ the father previously adopted the child;
 - c. ____ the child has been adjudicated by the court to be his child by the date a petition is filed for termination of parental rights;
 - d. ____ the father filed an affidavit of paternity under section § 382.013(2)(c) (and his name therefore is on the birth certificate) by the date a TPR petition is filed; **OR**
 - e. ____ the unmarried biological father acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor, has filed acknowledgment with the Office of Vital Statistics (i.e. registered w/ Putative Father Registry) within the required timeframes **AND** has complied with 1 of the following 2 requirements (based upon age of child):
 - I. ____ If the child was placed with the adoptive parents **more than 6 months after birth:** (§ 63.062(2)(a)), the unmarried biological father has
 - i. ____ developed a substantial relationship with the child
 - ii. ____ taken some responsibility for child and child's future and
 - iii. ____ demonstrated a full commitment to the child by providing financial support in accordance with father's ability if not prevented from doing so by person having lawful custody of child **and** either:
 - a. ____ Regularly visited the child at least monthly, when physically and financially able to do so and when not prevented from doing so by the birth mother or the person or authorized agency having lawful custody of the child; **or**
 - b. ____ Maintained regular communication with the child or with the person or agency having the care or custody of the child, when physically or financially unable to visit the child or when not prevented from doing so by the birth mother or person or authorized agency having lawful custody of the child.
 - ____ An unmarried biological father who has openly lived with the child at least 6 months within the 1-year period following birth and held himself out as the father shall be deemed to have met the requirements of this paragraph, and therefore his consent is required. § 63.062(2)(a)(2).
- II. ____ **If the child is under 6 months** at time placed with adoptive parents, the unmarried biological father must have shown full commitment to the child by doing the acts set forth in § 63.062(2)(b) before the mother executes her consent to adoption:
 - i. ____ filed notarized claim of paternity w/ Putative Father Registry;
 - ii. ____ within 30 days after service of notice of intended adoption plan, father

- timely filed affidavit that he is personally fully able & willing to take responsibility for the child, setting forth his plans for care of the child, and agreeing to a court order of child support and a contribution to the payment of living and medical expenses incurred for the mother's pregnancy and the child's birth in accordance with his ability to pay; AND
- iii. ____ if father had knowledge of pregnancy, paid a fair amount of expenses, if not prevented from doing so by mother

6. **Consent of a party can be waived by the court. See §§ 63.064(1), 63.089(4), 63.032(1).**

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

B. Form of Consent

1. ____ Notification of Right to select independent witness. **§ 63.082(4)(d).**
2. ____ Signed in the presence of two witnesses & acknowledged before a notary public who is not signing as one of the witnesses. ____ Date & time of execution. ____ Witnesses names & addresses printed or typed. **§ 63.082(4)(d).**
3. ____ If the child is more than 6 months old, the birth parent's consent must contain a statement that consent is subject to a revocation period of 3 business days. **§ 63.082(4)(c)&(e).**
4. ____ If the child is 6 months or younger, the birth parent's consent must contain the language required in section **§ 63.082(4)(e) in at least 12-point boldfaced font.**
5. ____ Acknowledgment of receipt of consent signed by person whose consent is required. **§ 63.082(5).**

5. Documents filed with Petition:

- a. ____ Family, Social & Medical History- birth parents (**§ 63.082(3)(a)**); OR
____ Affidavit of diligent search if parent can't be located or identified.
- b. ____ Summary of interview with birth parent, whose consent is required, before the consent is executed, by a representative of the adoption entity. **§ 63.082(3)(b)**
- c. ____ Certified copy of child's birth certificate [needed to evaluate if father's consent is required under § 63.062(1)(b)(4); Family Law form 12.981(b)(1)]
- d. ____ Required Inquiry Affidavit **§ 63.088(4)** (required if parental rights not previously terminated) by person placing child for adoption or any relative or person having legal custody of the minor regarding the identity of:
 - i) any man to whom the mother of the minor was married at any time when conception of the minor may have occurred or at the time of the birth of the minor;
 - ii) any man who has filed an affidavit of paternity pursuant § 382.013(2)(c) before the date that a petition for termination of parental rights is filed with the court;
 - iii) any man who has adopted the child;
 - iv) any man who has been adjudicated by a court as the father of the minor child before the date a petition for termination of parental rights is filed

- with the court; and
- v) any man whom the mother identified as a potential biological father before the date she signed the consent for adoption.

6. Contemporaneous Filing Requirements

- a. _____ UCCJEA/Oath filed by party to proceeding: §§ **63.087(4)(e)2 & 63.135**
- b. _____ Copy of Adoption disclosure & original written statement acknowledging receipt of disclosure (§ **63.085(1)**); §**63.039(1)(j)**) (**language of disclosure must track HB 663**)
- _____ birth mother
- _____ birth father, if parent per § 63.032(12)(i.e. consent required under § 63.062(1))
- (Adoptive mother disclosure to be filed in adoption file)
- (Adoptive father disclosure to be filed in adoption file)
- c. _____ All information required by Indian Child Welfare Act (**25 USCA 1901 et. seq.**).
- _____ Birth mother's affidavit § **63.087(4)(e)(2)**
- _____ Birth father's affidavit (only necessary if birth mother's affidavit only addresses the mother's heritage)

7. Paternity Registry § 63.054

- a. An unmarried biological father must register with the paternity registry prior to filing the petition for TPR to preserve his right to notice and consent to an adoption, unless he is served with the NOIAP & the mandatory 30 day response date is later than the date the TPR petition is filed. § **63.054(1)**
- b. In **All** termination of parental rights proceedings, the petitioner must search the Putative Father Registry. § **63.054(7)**.
- c. _____ A Putative Father Registry certificate from the OVS must be filed with the court containing:
1. _____ The identity and contact information of a possible father, or
2. _____ A statement that after a diligent search, no match was found.
- § **63.054(7)**.
- d. _____ Date of PFR Search must be date TPR petition was filed or later, unless NOAIP was served & the mandatory 30 day response date is later than the date the TPR petition is filed. See #9 below.

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

- a. _____ Person whose consent is required must be served with petition and summons, even if have signed a consent to adoption, unless:
- _____ A waiver of service of the pleadings and notice of hearing is filed. §§ 63.087(5), 63.089(2)(b)(3) (**waiver of final hearing & further notice of adoption proceedings is not sufficient to waive Service of Pleadings**)
- b. _____ An answer must be filed and appearance at final hearing required.
- c. _____ Person whose consent is required and who has not executed a consent for adoption or affidavit of nonpaternity and whose identity and location are known, must be personally served, pursuant to chapter 48, at least 20 days before final hearing with copy of TPR petition and notice of the final hearing using language

specified in §63.088(3).

1. _____ If identity of person whose consent is required is known, but their location is unknown, an affidavit of diligent search pursuant to § 63.088(5) must be conducted.
2. _____ If the location is not discovered through diligent search, constructive service, as provided in Chapter 49, must be made 30 days before final hearing.

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

9. Service of Notice of Intended Adoption Plan*

a. Service of the Notice of Intended Adoption Plan on potential unmarried biological father is required when:

1. _____ The child is 6 months of age or less and the mother has identified a man/men as the potential unmarried biological father by the date she executes a consent for adoption or unmarried biological father is identified through search of Putative Father Registry. § 63.062(3).
2. _____ Known and locatable potential biological father. Adoption entity/Pro se Petitioner shall serve a notice of intended adoption plan (NOIAP) pursuant to chapter 48. NOAIP must contain language specified in § 63.062(3) and language specified in 63.062(2)(b)2. READ statutes.

b. Service of the Notice of Intended Adoption Plan on potential unmarried biological father is not required if:

1. _____ Potential unmarried biological father has signed a consent to adoption or an affidavit of nonpaternity;
2. _____ The child is older than six months of age by the date the mother executes a consent. § 63.062(3);
3. _____ Recipient of NOIAP may waive service of process by executing waiver & acknowledging receipt of the plan; OR
4. _____ Location of potential unmarried biological father unknown. Conduct diligent search & file affidavit of diligent search per § 63.088(5). If location remains unknown, no obligation to provide further notice; consent is not required.

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

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

a. _____ Adoption entity/Pro Se Petitioner has filed proof of service of NOIAP and

- copy of NOIAP; and
- b. _____ Within 30 days of being served with the NOIAP, the unmarried biological father has not taken all of the following actions required to avoid a default:
1. Filed a claim of paternity with the Florida Putative Father Registry by deadline.
_____ Adoption entity must file certificate from Florida Putative Father Registry with search date more than 30 days after service of NOIAP which states that a claim of paternity was not found.
 2. The potential unmarried father has not timely filed affidavit with the court that he is personally fully able & willing to take responsibility for the child, setting forth his plans for care of the child, and agreeing to a court order of child support and a contribution to the payment of living and medical expenses incurred for the mother's pregnancy and the child's birth in accordance with his ability to pay; and if father had knowledge of pregnancy, paid a fair amount of expenses, if not prevented from doing so by mother; AND
 3. Provide support for the birth mother and child.

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

- a. _____ There is a request for a waiver of consent to an adoption by those persons required to consent by § 63.062
- b. _____ Notice of hearing on the petition to adopt is not afforded a person whose consent is required but who has not consented
- c. _____ An intermediary, attorney, or agency is seeking fees or costs in excess of those provided under §63.097 or § 63.212(4)
_____ If legal or other fees exceed \$5,000, costs exceed \$800, or living and medical expenses exceed \$5,000, separate court approval needed.
- d. _____ An affidavit of diligent search and inquiry is filed in lieu of personal service.
- e. _____ The court is otherwise aware that any person having standing objects to the adoption

12. Final Hearing is required. May be held if:

- a. _____ The minor has been born.
- b. _____ All consents, affidavits of inquiry, affidavits of non-paternity, diligent search, and service required have been obtained and filed with the court. **§ 63.089**

13. TPR Final Judgment § 63.089(6)(b)

- a. Within 24 hours of filing the final judgment, the court shall mail a copy to:
 1. DCF
 2. Petitioners
 3. Any person whose consent was required
 4. Respondent
- b. The clerk shall issue a certificate of mailing.