

Adoption Law Certification Exam Sample Questions

Disclaimer: The following questions are provided to the public as examples of the types of questions that appear on Adoption Law certification exams, as well as the subject areas that are tested. All questions are correct as of December 31, 2016. None of these questions will appear, as worded, on future exams.

Multiple Choice:

1. Which of the following statements is NOT true pertaining to a consent to an adoption that is executed outside the presence of the court?
- (A) It must be acknowledged before a notary public who must legibly note on the consent the date and time of execution.
 - (B) It must be executed by the parents after the birth of the minor to be adopted.
 - (C) It must include the witnesses' home or business address along with their social security number typed or printed underneath their signatures.
 - (D) It must contain a Statement of Rights in at least 12 point boldfaced type unless it is an adoption of a relative, adult, stepchild or a child older than six months of age.

ANSWER: (C) FS 63.082(4)(a)(b)(d)(e)(5)
Core 6.3

Mary Lou left her three-day old infant girl in an infant carrier, wrapped in a blanket, at the local fire station. The fire station personnel transported the infant to the local hospital and the social worker contacted a local adoption agency. Showing no signs of abuse or neglect, the infant was discharged from the hospital to the adoption agency two days after she was dropped off at the fire station. The adoption agency immediately made placement of the infant with the prospective adoptive parents. When the infant was ten days old, the adoption agency filed a petition for termination parental rights after determining the infant was not a missing child.

2. Did the adoption agency comply with the statutory requirements for filing the Petition for Termination of Parental Rights?

- (A) Yes, the adoption agency can file the Petition for Termination of Parental Rights after the agency has determined the child is not a missing child.
- (B) Yes, the adoption agency can file the Petition for Termination of Parental Rights after the agency has taken custody of the surrendered infant but cannot proceed to have a judgment entered until after the timeframe for a birth parent to reclaim the child has passed.
- (C) No, the adoption agency cannot file the Petition for Termination of Parental Rights until thirty days after the child was surrendered.
- (D) No, the adoption agency must wait until a notice is published in the local paper and the birth mother has had enough time to reclaim the infant.

Answer: C. Fla. Stat. 63.0423 states “A petition for termination of parental rights under this section may not be filed until 30 days after the date the infant was surrendered in accordance with Fla. Stat. 383.50.”

Core 6.1

3. Three weeks after birth, the mother of the infant contacted the agency seeking return of the child. What should you advise the agency?

- (A) The agency should immediately file a Petition to Terminate Parental Rights.
- (B) The agency must immediately return the child to the mother.
- (C) The mother cannot make a claim to the infant.
- (D) The agency may contact the mother and try to obtain her consent.

ANSWER D: - §63.0423; §383.50 (5)

During birth mother Marie's pregnancy, the adoption entity serves the named birth father, Joe, with a Notice of Intended Adoption Plan. He timely files a verified response and registers with the Florida Putative Father Registry. The adoption entity serves Joe with the Summons, Petition for Termination of Parental Rights, and Notice of Petition and Hearing to Determine Parental Rights Pending Adoption. Joe appears at the hearing, and tells the Judge that he hasn't supported Marie because he is not working due to an injury, and, also, he cannot afford to hire an attorney.

4. Is Joe entitled to have an attorney appointed to represent him in the termination of parental rights hearing?

- (A) No, because he has not provided support for the birth mother and the child.
- (B) No, because there is no right to counsel to an indigent party, except in a criminal case.
- (C) No, because all that the adoption statute requires is that the Judge advise Joe that he has a right to ask that the hearing be reset for a later date so that he may consult with an attorney.
- (D) Yes, pursuant to case law, an indigent parent is entitled to appointed counsel in an involuntary termination of parental rights proceeding and Joe has arguably achieved the status of parent through his response.

Answer D - MEK v RLK, 921 So. 2d 787 (5th DCA 2006), (holding that in a termination of parental rights case, indigent parents are entitled to court

appointed counsel. “In the area of termination of parental rights, the Florida due process clause provides higher due process standards than the federal due process clause.”)

K.H. v. Children’s Home Society, 120 So. 3d 104 (Fla. 4th DCA 2013) (holding appointment of counsel for putative father was error. A putative father who does not comply with the requirements of §63.062(2) is deemed to have waived and surrendered any rights in relation to the child. Heart of Adoptions, Inc. v. J.A., 963 So. 2d 189,197 (Fla. 2007). Until a putative father complies with the statute, he has no constitutionally protected right to counsel.)

Core: 4.5, 4.6, 7.13

5. When notarizing a birth mother’s consent which form of identification should **NOT** be accepted by the notary?

- (A) A current Georgia driver’s license.
- (B) A current Florida identification card.
- (C) A hospital identification band.
- (D) A current passport from Mexico.

Answer C - F.S. 63.082(1)(a)(1) and F.S. 117.05(5)(b)(2)

Core 6.4

6. Once an adoption entity is working with a birth mother and she provides the adoption entity with the putative birth father’s name and address the adoption entity must provide him with an adoption disclosure:

- (A) Within 30 days of receipt of the information
- (B) Within a reasonable time after receipt of the information
- (C) Within 14 days of the birth of the child
- (D) Within 14 days of receipt of the information

Answer D - F.S. 63.085(1)

Core 3.1

Sarah meets with a Florida licensed adoption agency on June 20 about placing her unborn child for adoption. At that time, she tells the agency that she has never been married and that Ralph is the biological father of her child. The adoption agency personally serves Ralph with a Notice of Intended Adoption Plan on July 1. Sarah delivers her child on July 11 and executes her Consent to Adoption on July 13. The adoption agency files the Petition to Terminate Parental Rights on July 15. Ralph registers with the Florida Putative Father Registry on July 20.

7. Which of the following is CORRECT?

- (A) Ralph's registration with the Putative Father Registry must be denied because the Petition to Terminate Parental Rights has already been filed.
- (B) Ralph's consent to the adoption is not required because he did not file with the Putative Father Registry by the time Sarah executed her Consent to Adoption.
- (C) The Petition to Terminate Parental Rights should not be filed until 30 days after Ralph was served with the Notice of Intended Adoption Plan.
- (D) The Putative Father Registry must accept Ralph's registration even though the Petition to Terminate Parental Rights has already been filed.

Answer D - 63.054(1)

Core: 4.1, 4.2, 4.5, 4.10

8. An adoption entity must report to the court any intended placement of a minor for adoption with any person who is not a relative or a stepparent, if the entity participates in the intended placement, within:

- (A) A reasonable time
- (B) 14 days
- (C) 2 business days
- (D) 3 days

Answer C - Fla. Stat. 63.092(1)

Core A5

Jane and her boyfriend John are the parents of a one-year-old child in foster care through DCF. DCF has filed a petition to terminate the parents' rights. The parents are not able to complete their case plan and have been told about their right to make a private placement adoption plan for their child. Jane and John have selected Jane's aunt, Mary, to adopt the child. As the adoption entity, you file a motion to intervene on behalf of Aunt Mary and file with your motion Aunt Mary's favorable home study and the unconditional consents of Jane and John for placement through your entity with prospective adoptive parents. The Court grants the motion to intervene; however, following the best interest hearing, the Court denies transfer of custody to Aunt Mary out of concern that Aunt Mary will return the child to the parents. DCF states its concern that it does not have an adoptive placement for the child and its intent to dismiss its petition.

9. What is the adoption entity's obligation with regard to the intervention?

- (A) You file your Petition for Termination of Parental Rights in family division as a relative adoption.
- (B) You remain obligated to make an alternative placement of Jane and John's child.
- (C) You file a notice of withdrawal of the Intervention and DCF moves forward with their TPR.
- (D) On behalf of Aunt Mary, you file an appeal of the Court's decision.

Answer B - F.S. 63.082(6)(a). C.G. vs GAL Program, 920 So. 2nd 854(4th DCA 2006)
(affirming trial court's holding that the surrender and consent bound the adoption entity to accept responsibility for the placement of the child.)

Core A1, 5 & 6 and B2

10. Which of the following living expenses does NOT qualify as a “reasonable living expense” pursuant to Chapter 63 Florida Statutes?

- (A) Water and electric.
- (B) Lost Wages.
- (C) Toiletries.
- (D) Transportation (bus pass, taxi, gas, and car insurance).

Answer B. - §63.097(2)(a)

Core: 10.1

Short Answer:

Facts for Questions 1 & 2

A 14-year-old foster child seeks to place her unborn child for adoption. Two relatives desire to adopt: (1) her 72-year-old great-grandmother, Gertrude, who lives in Valdosta, Georgia and, (2) her mother's sister, Sally, who lives in New Orleans, Louisiana.

1. Will either Gertrude or Sally be required to obtain a home study pursuant to Florida Law?

Answer: – Yes. Both Gertrude and Sally will be required to obtain home studies because neither are related within the 3rd degree of consanguinity. §63.092(3);

63.032(16)

Core Area 5.2

2. The birthmother selects her foster mother to witness the consent. Can the adoption entity be the second witness?

Answer: No. A consent executed by a minor who is 14 years of age or younger must be witnessed by a parent, legal guardian, or court-appointed Guardian ad Litem. However, if the foster parents have been court-appointed legal guardians for the minor, , it would be acceptable. §63.082(1)(c)

Core Area 6.2, 6.4

Essay:

YOUR ANSWER MUST INCLUDE A DETAILED ANALYSIS OF YOUR KNOWLEDGE OF THE FLORIDA ADOPTION STATUTE, RELEVANT CASE LAW AND THE RULES REGULATING THE FLORIDA BAR. YOU WILL BE GRADED ON YOUR ANALYSIS OF THE LEGAL AND ETHICAL ISSUES RAISED IN THIS FACT PATTERN AND YOUR ABILITY TO REACH A REASONED CONCLUSION. (The citation of specific authority is not required; however, you must demonstrate knowledge and an ability to apply the appropriate legal concepts arising from statutory and case law.)

Paul and Abby Palmer, prospective adoptive parents, seek your advice and counsel regarding the adoption of a child that Abby Palmer's niece is expected to deliver in three months. They do not know the requirements of Florida's Adoption Law and they will rely solely on your counsel. The Palmers tell you that their niece stated she is in good health, works part-time at a minimum wage job, and is living with her unemployed boyfriend, who is also the birth father. Their niece requests their assistance with the following living expenses: rent which includes water and electric (\$800 per month); reimbursement for three months of back rent paid by her father; internet & land based phone service (\$100 per month); food for the house (\$500 per month); cell phone (\$99 per month); day care for the niece's 2-year-old while she is working (\$100 per week); cable including the NFL package (\$159 per month); probation costs (\$2,000 to become compliant); toiletries (\$100 per month); hair cuts (\$40 per month); maternity clothing including a new pair of designer shoes (\$750); car payment (\$150 per month); auto insurance (\$29 per month); gas for her car (\$100 per month); and Cobra medical insurance (\$350 per month – co-pays for medical care are unknown.) The Palmer's niece requests that they pay all of her expenses during the remainder of her pregnancy and two months after the child's birth. The boyfriend is in agreement with the adoption plan.

What advice would you provide?

Model Answer for Essay Question (Core 10: Adoption Related Expenses)

I. LEGALITIES OF LIVING EXPENSES

A. Generally

1. The Adoption Entity may pay the reasonable living and reasonable and necessary medical expenses of the birth mother during the period of the mother's pregnancy and up to six weeks after the birth of the child. [*F.S. §63.097(2(a) and (b)).*] So, the mother's request for expenses to be paid for two months after birth cannot be granted, and expenses can be paid for only the six-weeks post-partum. The living expenses may be paid only if the mother is unemployed, underemployed, or disabled. The statute provides that the following are considered to be reasonable expenses to be paid:
 - a. Rent;
 - b. Utilities;
 - c. Basic telephone service;
 - d. Food;
 - e. Toiletries;
 - f. Necessary clothing;
 - g. Transportation;
 - h. Insurance; and
 - i. Other expenses found by the Court to be necessary for the health and welfare of the mother and unborn child.
 - j. Medical Expenses for pre-natal care and delivery
 - k. Medical Insurance.

2. In this case, the mother is underemployed since she is working part time for only minimum wage. As such, the Palmers may assist her with living expenses pursuant to the statute.
3. Rent. The monthly rent amount is reasonable and appropriate. However, the reimbursement of past rent which has already been paid is not permitted.
4. Internet, Land-Based Phone & Cell Phone. The statute only authorizes basic telephone service. The entity may only pay for one phone service. The internet is not specifically authorized by statute. However, if basic internet service is provided or bundled with the basic telephone service, it should be argued that the internet would be permitted under the category of utilities. A utility is defined as “a service such as electricity, gas or water that is provided by a public utility”. If the internet were provided with the land based phone service, it would qualify as a basic utility.
5. Food. We do not know who resides in the house but the statute only permits payment for food for the birth mother. I would seek court approval for payment of the food expenses for birth mother’s daughter as this would qualify as “necessary for the health and welfare of the mother and unborn child”. (Certainly, if a mother cannot feed her child she will starve herself first to put food in the child’s mouth and this will hurt the unborn child.) The birth father and all other residents of house must contribute for their own food.
6. Cable with the NFL cable package. While basic cable is an allowable expense as a utility, the additional features are not authorized by statute.
7. Probation Costs. Probation costs are not allowed to be paid pursuant to the statute and court approval must be obtained. The

Court has no authority to approve expenses that it cannot fit within the statute – timeframe or category- §63.102(5)(c)

8. Toiletries. The monthly amount is reasonable and appropriate.
9. Haircuts. Paying for haircuts is not allowed, and would be an expense she could cover from her wages or court approval would be required.
10. Maternity Clothing. The amount is reasonable and appropriate except that designer shoes do not qualify as “necessary clothing”. The amount for the shoes could not be paid.
11. Car Payment, Gas & Insurance. The total of the mother’s transportation expenses are reasonable and appropriate.
12. Cobra Medical Insurance. Medical insurance is an allowable expense. However, the Cobra payment is high and only provides the mother coverage for a set period of time. The mother may not be able to pay the Cobra payment after the adoption and an application for Medicaid should be explored to determine whether this collateral source would reduce the costs of the pregnancy/adoption and provide the mother with better benefits. Active Medicaid covers all expenses at 100%, no copayments, deductibles and uncovered expenses.
13. Court approval for the payment of living and medical expenses over a total of \$5,000 is required. [*F.S. 63.097(3)(c)*]

B. Special concerns:

1. Paying all of the housing expenses, when her boyfriend lives with her – The statute only allows the payment of expenses for the birth mother, and not for the birth father. Thus, the boyfriend should be contributing half of the housing expenses. However, if he is

unemployed, and is not actually contributing, and his share of expenses go unpaid, this may endanger the mother's safety and stability during her pregnancy.

PLEADING, FILING, AND DOCUMENTATION REQUIREMENTS.

A. Declaratory Statement [*F.S. §63.102*]:

1. A proceeding for prior approval of fees and costs may be commenced at any time after an agreement is reached between the birth mother and the adoptive parents by filing a petition for declaratory statement on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the Circuit Court.

B. Affidavit of Expenses and Receipts [*F.S. §63.132*]:

1. The adoption entity must file an affidavit with the Court which itemizes all receipts and disbursements made in connection with this adoption. The adoptive parents must also sign it.
2. It must be filed before the adoption final hearing.
3. The Court must issue a separate order approving or disapproving all the payments.