



## **ADOPTION LAW CERTIFICATION STUDY GUIDE**

This list is not intended to be an exclusive list from which to study for the examination, but is provided only as a guide to assist the examinee in selecting study materials.

### **STATUTES**

- Florida Statute Chapter 63 – Florida Adoption Act
- Florida Statute Chapter 61, Part II – Uniform Child Custody Jurisdiction and Enforcement Act
- Florida Statute 383.50 – Treatment of Surrendered Newborn Infant
- Florida Statute 409.408 – Interstate Compact for the Placement of Children
- Florida Statute Chapter 39

### **OTHER ACTS**

- Indian Child Welfare Act (ICWA)
- Servicemembers Civil Relief Act
- Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoptions

## TOPICS THAT MAY BE COVERED UNDER EACH HEADING

### A. Core Areas (80% of exam content)

1. **Chapter 63 of the Florida Statutes – “Florida Adoption Act”**
2. **Attorney/Client Communication/Relationship**
  - 2.1 Identifying the client
  - 2.2 Disclosure to the client information that must be disseminated to third parties pursuant to the applicable law
  - 2.3 Rules Regulating The Florida Bar concerning the Intermediary Attorney
  - 2.4 Fee Arrangements
3. **Disclosure**
  - 3.1 Section 63.085 of the Florida Statutes
  - 3.2 Ethical considerations concerning complete disclosure to non-client concerning communication between attorney and client
  - 3.3 Ethical considerations concerning complete disclosure to client concerning communications between attorney and non-client
  - 3.4 Legal requirements on confidentiality of adoption matter
  - 3.5 Facts and communications that must be disclosed to the presiding court
  - 3.6 Responsibility to discover additional information to complete disclosure
4. **Notice**
  - 4.1 Notice to fathers and third parties
  - 4.2 Fathers and third parties required consent to an adoption
  - 4.3 Diligent Search
  - 4.4 Form of Notice
  - 4.5 Notice of Intended Adoption Plan
  - 4.6 Duties of father pursuant to Chapter 63
  - 4.7 Constitutional due process
  - 4.8 Duty to investigate third party reports concerning father issues
  - 4.9 Genetic Testing
  - 4.10 Paternity Registries
  - 4.11 Abandonment
  - 4.12 Conception resulting from a criminal act
  - 4.13 Service of Process
  - 4.14 Minor parents
5. **Placement/Petition for Adoption**
  - 5.1 When is an attorney an adoption entity
  - 5.2 Legal prerequisites for placement and home study requirements
  - 5.3 Placement Agreements & Statements of Risk
  - 5.4 Ethics of communicating with birth and medical facilities/providers

- 5.5 Post placement communication agreements
- 5.6 When is an adoption of a relative adoption, stepparent adoption or an adult adoption subject to the statutory exceptions
- 5.7 Standing to Petition to adopt a child
- 5.8 Pleading requirements
- 5.9 Evidentiary requirements
- 5.10 What persons are eligible to adopt a child
- 5.11 Standards to set aside an adoption and the statute of repose

## **6. Consent & Revocation**

- 6.1 Persons or entities required to consent
- 6.2 Minor parents who are executing an adoption consent
- 6.3 Form of Consent
- 6.4 Witnesses and notary public
- 6.5 Pre-consent interview
- 6.6 Timing of Consent
- 6.7 Revocability of consent
- 6.8 Capacity to consent
- 6.9 Documents that must be executed before or at the time of the adoption consent
- 6.10 Alternatives to consent
- 6.11 Waiver of consent and abandonment

## **7. Termination of Parental Rights**

- 7.1 Pleading requirements of petition
- 7.2 Standing to petition for termination of parental rights
- 7.3 Grounds for termination of parental rights
- 7.4 Evidentiary requirements for hearing
- 7.5 Burden of proof
- 7.6 Notice and waiver of notice
- 7.7 Service of process
- 7.8 Due process
- 7.9 Pre-hearing default on Notice of Intended Adoption Plan
- 7.10 Default for failure to appear at termination hearing
- 7.11 Notice to grandparents
- 7.12 Standard to set aside a termination of parental rights and the statute of repose
- 7.13 Right to counsel
- 7.14 Intervention

## **8. Interstate Compact on the Placement of Children**

- 8.1 Requirements and procedures of Interstate Compact on the Placement of Children on an adoption placement of a child born in the State of Florida
- 8.2 Requirements and procedures of Interstate Compact on the Placement of Children on an adoption placement of a child born in a state other than the State of Florida whose prospective adoptive parents primarily reside in the State of Florida.

- 8.3 Federal Background Clearances
- 8.4 Choice of law

**9. Indian Child Welfare Act (ICWA)**

- 9.1 Proceedings covered by ICWA
- 9.2 Federally recognized tribes
- 9.3 Placement preferences
- 9.4 Good cause exception
- 9.5 Exclusive tribal jurisdiction
- 9.6 Protections available to the ICWA parent/child
- 9.7 Which children are Indian children whose families are entitled to ICWA protections
- 9.8 Applicability to non-Indian parent
- 9.9 Notice to tribe and/or the federal government – confidentiality issues
- 9.10 Who is a father for ICWA purposes

**10. Adoption Related Expenses**

- 10.1 Type and method of payment of living expenses including extraordinary living expenses
- 10.2 Duration of expenses
- 10.3 Limits/caps on amount of expenses
- 10.4 Direct payment by prospective adoptive parents
- 10.5 Advertising expense
- 10.6 Attorney's fees including expenses for non-attorney time
- 10.7 Court and legal expenses
- 10.8 Expenses paid to third parties
- 10.9 Improper Expenses – Types and Amounts
- 10.10 Medical expense and responsibility to use state and federal insurance programs
- 10.11 Welfare assistance and impact on amount of living expenses
- 10.12 Counseling expenses
- 10.13 Disclosure of expenses to the court.
- 10.14 Court approval of expenses
- 10.15 Penalties for failure to comply with law concerning payment, documentation and disclosure of expenses
- 10.16 Ethical consideration regarding attorney trust accounts and use of other funds and resources to pay adoption related expenses
- 10.17 Ethical responsibility to verify expenses
- 10.18 Adoption tax credit

**11. Jurisdiction/Venue/Choice of Law**

- 11.1 Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”)
- 11.2 Parental Kidnapping Prevention Act
- 11.3 Proper judicial forum for adoption action i.e.; family court, circuit court, juvenile court, etc.
- 11.4 Subject matter jurisdiction
- 11.5 Personal jurisdiction

- 11.6 Choice of law
- 11.7 Waiver of jurisdiction
- 11.8 Venue and waiver of venue

**12. Adoption Entity, Party and Third-Party Misconduct**

- 12.1 Wrongful Adoption
- 12.2 Adoption Entity Duties
- 12.3 Required disclosure
- 12.4 Parties to a wrongful adoption case
- 12.5 Theories of liability
- 12.6 Relief available to aggrieved adoptive parents
- 12.7 Relief available to aggrieved biological/birth parents
- 12.8 Permissible sanctions against the adoption entity, parties and third-parties

**13. Ethics**

**B. Sub-core Areas (20% of exam content):**

**1. Servicemembers Civil Relief Act**

- 1.1 Application of the Act to an adoption placement
- 1.2 Parents entitled to the protections of the Act
- 1.3 Procedural requirements
- 1.4 Effect of Act on validity of termination of parental rights judgment or adoption judgment

**2. Juvenile Dependency/Termination of Parental Rights/Intervention**

- 2.1 Standing to intervene
- 2.2 Issues juvenile court may address upon intervention
- 2.3 Provisions of Chapter 39 that impact the intervention issue

**3. Alternative Dispute Resolution**

- 3.1 Open Adoption Agreements
- 3.2 Mediation

**4. Adoption Subsidy/Special Needs Adoption**

- 4.1 Eligibility (i.e.: definition of special needs children and type of adoption)
- 4.2 Categories of available subsidies and benefits
- 4.3 Federal, state and interstate subsidy issues
- 4.4 Appeal from denial of subsidy
- 4.5 Effect on subsidy due to change in adoption status (i.e.: adoptive parents' death, termination of adoption, disrupted adoption).
- 4.6 Modification of subsidies
- 4.7 Eligibility for increased subsidy allowance

- 5. Advertising**
  - 5.1 Bar approval and requirements
  - 5.2 Entities prohibited from advertising
  - 5.3 Assessment to client
  - 5.4 Ethical Issues
  
- 6. Surrendered Infants/Safe Haven**
  - 6.1 Procedures/Risk
  - 6.2 Eligible adoptions (children)
  - 6.3 Eligible adoptive parents
  - 6.4 Rights of parent
  - 6.5 Liability of adoption entity
  
- 7. Pre-Planned Adoption**
  - 7.1 Prerequisites, parties and procedures
  - 7.2 Mandatory contractual provisions
  - 7.3 Prohibitions
  - 7.4 Permitted reimbursements and expenses
  - 7.5 Risk and revocation rights of volunteer mother and legal husband
  - 7.6 Ethical issues
  
- 8. Open Adoption/Post Placement Communication Agreement**
  - 8.1 Enforcement and remedies for breach
  - 8.2 Differences within the private placement and a state/DCF placement
  - 8.3 Adoption Entity duties to each party regarding disclosure and enforceability
  - 8.4 Ethical responsibility of Adoption Entity to breaching client
  
- 9. Intercountry Adoption/Hague Eligibility**
  - 9.1 Issues concerning whether an adoption is controlled by The Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption

Examinees will be tested on law that was in effect on December 31st of the year preceding the examination.