

Obtaining Information of an Adoption

1. Non-identifying information

An adoptee or adoptive parent of a minor are entitled to obtain non-identifying information regarding the birth family and the adoption from the agency that was involved in the adoption or from the Illinois Adoption Registry (see section immediately below). If the child was adopted through the Illinois Department of Children and Family Services (DCFS), more information can be obtained from DCFS. The Department does not have any information pertaining to adoptions in which the child was not a DCFS ward.

2. Adoption Registry

Mutually consenting adoptees and biological parents may now obtain identifying information about one another, i.e. name and last known address, through the Illinois Adoption Registry and Medical Information Exchange operated by the Department of Public Health (www.idph.state.il.us/vitalrecords/adoptioninfo.htm or 877-323-5299). The biological parents may file a registration identification form and an information exchange authorization. A parent may revoke these documents or reinstate them by filing additional documents at any time. An adoptee may do likewise if he or she is 21 years of age or older. If the adoptee is over 18 and under 21 years, written consent of the adoptive parents or adoptee's guardian must be included. The Department of Public Health will exchange information if the biological parents and the adoptee have each filed the appropriate documents, the identification forms show that the adoptee is the biological parent's child and there is a current exchange authorization on file for both parent and adoptee.

3. Confidential Intermediary

A biological parent, adoptee, adoptive parent and certain other persons may file a petition for the appointment of a Confidential Intermediary. The Confidential Intermediary will be granted access to court records and other records pertaining to the adoption in an effort to find the sought after person. When the relative is located, the CI explains the reason for the contact, describes the options available and helps facilitate a mutually agreeable outcome. Each person's confidentiality is protected unless both decide to have direct contact. For more information call 847-298-9096 or www.CI-Illinois.org.

FURTHER INFORMATION

The State of Illinois Child Care Association operates an Adoption Information Service. It can be reached by calling 312-346-1516 or 1-800-572-2390.

Because of the complex nature of this type of proceeding, it is important for you to consult a lawyer if you are considering an adoption. If you do not know a lawyer, you can call the Lawyer Referral Service of The Chicago Bar Association at 321 Plymouth Ct., Chicago, Illinois, 60604, 312-554-2001; or, if you cannot afford a lawyer, call CARPLS (Cook County's legal aid hotline) at 312-738-9200.

Looking for an Attorney?

The Chicago Bar Association Lawyer Referral Service makes referrals to experienced lawyers in all areas of the law, including adoption, wills and estate planning, consumer fraud, and real estate.

For referral to a lawyer right away:

- Call 312-554-2001
(M-F, 9:00 a.m. - 12:00 noon, 1:00 - 4:30 p.m.)
- www.chicagobar.org/lrs.htm (24 hrs.)

This pamphlet, based on Illinois law, was issued to give you some general advice about the law. It is not intended as legal advice about any particular problem. If you have a question about the law, you should consult a lawyer (see above).



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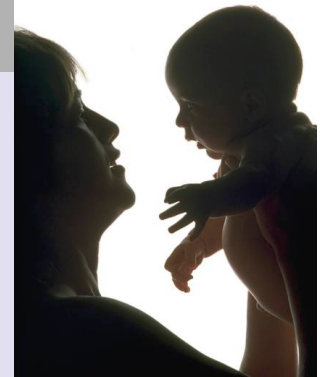
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ADOPTION:

Basic adoption procedure,
types of adoption, and how to
obtain information about an
adoption.

Adoption



A public service
pamphlet by
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Association

Adoption

Adoption is a court proceeding in which a person or persons become the legal parent(s) of the person who is being adopted. The parental rights of the biological parent are terminated and the biological parent is no longer legally related to the person who is adopted. Adopting parents will have a legal duty to financially support the child and the child will have inheritance rights from that person(s).

Who May Adopt?

A single person can adopt in Illinois, although in many cases there are two adopting persons. If a person is married, that person's husband or wife must join in the adoption proceeding, unless the husband and wife have been separated and living apart for more than a year. This is true even if one of the parents is the biological parent of the person being adopted.

Termination of Rights of Biological Parent

In order for an adoption to take place, the biological parents of the child being adopted must either consent to the adoption or be found unfit by a court. The court also must terminate their parental rights. If the biological parent refuses to consent and cannot be found unfit, no adoption can take place.

Consents are often taken in front of a judge. Absent fraud or duress, the consent will be deemed irrevocable. Therefore, a parent signing a consent should be fully aware of the important and legal effect of the paper which he or she is signing. A consent may also be taken in front of a person as provided by statute (generally a child welfare agency).

The law in Illinois provides a number of grounds for unfitness. Included among the grounds are abandonment or desertion of the child by the biological parent and failure of the parent to maintain a reasonable degree of interest, concern, and responsibility as to the welfare of the child.

Notice to Non-consenting Parent

If the biological parent will not consent to the adoption, the petition for adoption, which is filed with the court, must allege that the person is unfit. If the non-consenting parent's location is known, the sheriff will serve him with appropriate papers and the parent then may appear in court and defend his parental rights. If the parent's location is not known, he can be given notice through a publication in a newspaper. If the biological parent does not respond to either the personal service or the newspaper notice, the parent's rights may be terminated on account of the failure to respond to the allegations of unfitness by a court order.

Various Types of Adoptions

There are five major categories of adoptions:

1. Related Adoptions

In this type of case, one or both of the adopting parents is related to the person who is being adopted. A frequent example of this type of case occurs when a biological mother and stepfather wish to adopt the children of the biological mother of the children. If the adoption proceeds, either on the basis of consent of the first husband or on the basis of his unfitness, the stepfather becomes the legal father of the children.

A related adoption also includes the re-adoption of a child previously adopted in a foreign country. While it is usually unnecessary to file an adoption in Illinois after an initial adoption is completed abroad, most families decide to complete an adoption in Illinois to secure paperwork from a jurisdiction within the United States.

2. Placement by an Agency

This involves an agency that is licensed by the state to make adoptive placements. The agency can gain the authority to place the child directly from the biological parent on the basis of the parent's surrender of the child to the agency. The parent's surrender has the same effect as a consent. If both parents do not surrender to the agency, the adoption court will then have to terminate the parental rights of the non surrendering parent on the basis of his later consent or unfitness. Often, the parental rights of the biological parents are terminated in the Juvenile Court, and the agency is given the authority to consent by that court after the rights of the biological parents have been terminated on the basis of their unfitness.

3. Private Placement

Here, neither of the adopting parents is related to the child sought to be adopted, and the placement is not made by a licensed agency. In this type of case, the adopting parents are frequently able to receive the child directly from the hospital after the child's birth, with an order of the Court which is obtained after the biological parents have consented. The adopting parents are permitted to pay expenses incurred by the biological parents during the pregnancy only after prior court approval. The payment of such expenses does not guarantee that the biological parents will consent to the adoption, and the biological parents are free to change their mind about the adoption for a period of 72 hours after the birth of the child.

4. Adoption of an Adult

An adult is a person over the age of 18. In this type of case, the consent of the biological parent need not be obtained and he or she does not have to be found unfit. However, one of the adoptive parents must be related to the adult who is the subject of the adoption or the person being adopted must have lived with the adoptive parents for more than two years.

5. Standby Adoption

A standby adoption occurs when a biological parent is terminally ill and wishes to consent to the future adoption of his or her child by a specific person. Legislation was pending in May, 2004 that would remove the terminal illness requirement from this type of adoption so that any parent would be able to utilize this procedure. The proceeding is very similar to other adoptions except that the adoption becomes final only after the biological parent notifies the court that the adoption should be finalized or after the court is notified of the biological parent's death.

Investigation of Adopting Parents

In related adoptions and in adult adoptions there is generally no full home study, but there is an investigative report which is based on affidavits which are submitted by the adopting parents.

In agency and private placements, there is a full home study. A written investigatory report must be submitted to the court before the adoption can be completed. This includes the medical background, personal recommendations and a description of the home and work environments of the adoptive parents.

Name Change and Birth Record

The child's name may be changed to that of the adopting parents and a new birth certificate is issued by the state of birth. The Illinois Department of Public Health completes the change of a birth certificate after the completion of the adoption. The new birth record shows the adopting parents as the mother and father of the child who was adopted by them.