

*1999 DRAFTING REQUEST***Bill**Received: **03/05/1999**Received By: **malaigm**Wanted: **As time permits**

Identical to LRB:

For: **David Cullen (608) 267-9836**By/Representing: **Jessica Ford**

This file may be shown to any legislator: NO

Drafter: **malaigm**May Contact: **Mary Williamson 1-800-590-5714**
lenahan @execpc.com

Alt. Drafters:

Subject: **Children - TPR and adoption**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Uniform adoption act


Instructions:

See Attached--draft uniform adoption act, subject to changes marked on copy

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 05/28/1999	gilfokm 07/22/1999		_____			S&L
/P1			martykr 0712711999	_____			S&L
/1	malaigm 08/06/1999	gilfokm 08/1 111999	mclark 08/13/1999	_____	lrb-docadmin 08/13/1999	lrb-docadmin 09/28/1999	

EE Sent For: 09/28/1999



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1/?	malaigm	1/1-7-6-99 kmg	7/26 km/26	247 km/26			
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			MRC 8/12	MRC/JF 8/13			

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-THIRD YEAR
CHICAGO, ILLINOIS

JULY 29 - AUGUST 5, 1994

This hypertext version was prepared by

Kevin **McCarty** kmc@netcom.com

Thanks to Nancy Peck, NancyP5052@aol.com, for transcribing the plain text of the Act in the first place.

If you would like to receive an **official** paper copy of this Act, send \$13.00 to:
National Conference of Commissioners on Uniform State Laws (NCCUSL)
676 North St. Clair Street, Suite 1700
Chicago, IL 606 11
(312) 915-0195

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ARTICLE 1. GENERAL PROVISIONS

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SECTION 1-101. DEFINITIONS.

In this [Act]:

- (1) "Adoptee" means an individual who is adopted or is to be adopted.
- (2) "Adult" means an individual who has attained 18 year of age.
- (3) "Agency" means a public or private entity, including the Department, that is authorized by the law of this State to place individuals for adoption.
- (4) "Child" means a minor or adult son or daughter, by birth or adoption.
- (5) "Court", with reference to a court of this State, means the [designate] court.
- (6) "Department" means the [Department of Social Services, or Health Services, or Children's Services].
- (7) "Guardian" means an individual, other than a parent, appointed by a court under [applicable law] as a general guardian or guardian of the person of a minor.
- (8) "Legal custody" means the right and duty to exercise continuing general supervision of a minor as authorized by law. The term includes the right and duty to protect, educate, nurture, and discipline the minor and to provide the minor with food, clothing, shelter, medical care, and a supportive environment.
- (9) "Minor" means an individual who has not attained 18 years of age.
- (10) "Parent" means an individual who is legally recognized as a mother or father or whose consent to the adoption of a minor is required under Section 2-401(a)(1). The term does not include an individual whose parental relationship to a child has been terminated judicially or by operation of law.
- (11) "Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership, association, agency, joint venture, government, governmental subdivision or instrumentality, public corporation, or any other legal or commercial entity.
- (12) "Physical custody" means the physical care and supervision of a minor.
- (13) "Place for adoption" means to select a prospective adoptive parent for a minor and transfer physical custody of the minor to the prospective adoptive parent.
- (14) "Relative" means a grandparent, great grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew of an individual, whether related to the individual by the whole or the half blood, affinity, or adoption. The term does not include an individual's stepparent.
- (15) "Relinquishment" means the voluntary surrender to an agency by a minor's parent or guardian, for purposes of the minor's adoption, of the rights of the parent or guardian with respect to the minor, including legal and physical custody of the minor.
- (16) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.
- (17) "Stepparent" means an individual who is the spouse or surviving spouse of a parent of a child but who is not a parent of the child.

SECTION 1-102. WHO MAY- ADOPT OR BE ADOPTED.

Subject to this [Act], any individual may adopt or be adopted by another individual for the purpose of creating the relationship of parent and child between them.

SECTION 1-103. NAME OF ADOPTEE AFTER ADOPTION.

The name of an adoptee designated in a decree of adoption takes effect as specified in the decree.

SECTION 1-104. LEGAL RELATIONSHIP BETWEEN ADOPTEE AND

ADOPTIVE PARENT AFTER ADOPTION.

After a decree of adoption becomes final, each adoptive parent and the adoptee have the legal relationship of parent and child and have all the rights and duties of that relationship.

SECTION I-105. LEGAL RELATIONSHIP BETWEEN ADOPTEE AND FORMER PARENT AFTER ADOPTION.

Except as otherwise provided in Section 4-102, after a decree of adoption becomes final:

- (1) the legal relationship of parent and child between **each** of the adoptee's former parents and the adoptee terminates, except for a former parent's duty to pay arrearages for child support; and
- (2) a prior court order for visitation or communication with an adoptee terminates.

SECTION I-106. OTHER RIGHTS OF ADOPTEE,

A decree of adoption does not affect any right or benefit vested in the adoptee before the decree becomes final.

SECTION I-107. PROCEEDINGS SUBJECT TO INDIAN CHILD WELFARE ACT.

A proceeding under this [Act] which pertains to an Indian child, as defined in the federal Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is subject to that Act.

I SECTION I-108. RECOGNITION OF ADOPTION IN ANOTHER JURISDICTION.

A decree or order of adoption issued by a court of any other State which is entitled to **full** faith and credit in this State, or a decree or order of adoption entered by a court or administrative entity in another country acting pursuant to that country's law or to any convention or treaty or intercountry adoption which the United States has ratified, has the same effect as a decree or order of adoption issued by a court **of this** state. The rights and obligations of the parties as to matters within the jurisdiction of this State must be determined as though the decree or order were issued by a court of this State.

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ARTICLE 2. ADOPTION OF MINORS

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PART 1. PLACEMENT OF MINOR FOR ADOPTION

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SECTION 2-101. WHO MAY PLACE MINOR FOR ADOPTION.

- (a) The only persons **who** may place a minor for adoption are:
 - (1) a **parent** having legal and physical custody of the minor, as provided in subsections **(b)** and **(c)**;
 - (2) a **guardian** expressly authorized by the court to place the minor for adoption;
 - (3) an agency to which the minor has been relinquished for purposes of adoption; or
 - (4) an agency expressly authorized to place the minor for adoption by a court order terminating the relationship between the minor and the minor's parent or guardian.
- **(b)** Except as provided in subsection (c), a parent having legal and physical custody of a minor may place the minor for adoption, even if the other parent has not executed a consent or a relinquishment or the other parent's relationship to the minor has not been terminated.
- (c) A parent having legal and physical custody of a minor may not place the minor for adoption if the other legal parent has legal custody or a right of visitation with the minor and the parent's whereabouts are known, unless the other parent agrees in writing to the placement or, before the placement, the parent sends notice by certified mail to the other parent's last known address that the parent intends to place the child for adoption.
- (d) An agency authorized under this [Act] to place a minor for adoption may place the minor for adoption, even if only one parent has executed a relinquishment or has had his or her parental relationship to the minor terminated.

SECTION 2-102. DIRECT PLACEMENT FOR ADOPTION BY PARENT OR GUARDIAN.

- (a) A parent or guardian authorized to place a minor directly for adoption may place the minor only with a prospective adoptive parent for whom a favorable preplacement evaluation has been prepared pursuant to [Sections 2-201 through 2-206](#) or for whom a preplacement evaluation is not required under [Section 2-201 \(b\)](#) or **(c)**.
- **(b)** A parent or guardian shall personally select a prospective adoptive parent for the direct placement of a minor. Subject to the limitations of [\[Article\] 7](#), the parent or guardian may be assisted by another person, including a lawyer, health-care provider, or agency, in locating a prospective adoptive parent or transferring legal and physical custody of the minor to that individual.
- (c) A prospective adoptive parent shall furnish a copy of the preplacement evaluation to the parent or guardian and may provide additional information requested by the parent or guardian. The evaluation and any additional information must be edited to exclude identifying information, except that information identifying a prospective adoptive parent need not be edited if that individual agrees to its disclosure. Subject to the limitations of [\[Article\] 7](#), a prospective adoptive parent may be assisted by another person in locating a minor who is available for adoption.
- (d) If a consent to a minor's adoption is not executed at the time the minor is placed for adoption, the parent or guardian who places the minor shall **furnish** to the prospective adoptive parent a signed writing stating that the transfer of physical **custody** is for purposes of adoption and that the parent or guardian has been informed of the provisions of this [Act] relevant to placement for adoption, consent, relinquishment, and termination of parental rights. The writing must authorize the prospective adoptive parent to provide medical and other care and support for the minor pending execution of the consent within a time specified in the writing, and the prospective

adoptive parent shall acknowledge in a signed writing responsibility for the minor's medical and other care and support and for returning the minor to the custody of the parent or guardian if the consent is not executed within the time specified.

- (e) A person who provides services with respect to direct placements for adoption shall **furnish** to an individual who inquires about the person's services a written statement of the person's services and a schedule of fees.

SECTION 2-103. PLACEMENT FOR ADOPTION BY AGENCY.

- (a) An agency authorized to place a minor for adoption shall **furnish** to an individual who inquires about its services a written statement of its services, including the agency's procedure for selecting a prospective adoptive parent for a minor, and a schedule of fees.
- (b) An agency that places a minor for adoption shall **furnish** to the prospective adoptive parent a signed written authorization to provide medical and other care and support for the minor pending entry of a decree of adoption, and the prospective adoptive parent shall acknowledge in a signed writing responsibility for the minor's medical and other care and support.
- (c) Upon request by a parent who has relinquished a minor child pursuant to Part 4, the agency shall promptly inform the parent as to whether the minor has been placed for adoption, whether a petition for adoption has been granted, denied, or withdrawn, and, if the petition was not granted, whether another placement has been made.

SECTION 2-104. PREFERENCES FOR PLACEMENT WHEN AGENCY PLACES MINOR.

- (a) An agency may place a minor for adoption only with an individual for whom a favorable preplacement evaluation has been prepared pursuant to Sections 2-201 through 2-206. Placement must be made in the following order:
 - (1) if the agency has agreed to place the minor with a prospective adoptive parent selected by the parent or guardian, the individual selected by the parent or guardian;
 - (2) an individual selected by the agency in accordance with the best interest of the minor.
- (b) In determining best interest under subsection (a)(2), the agency shall consider the following individuals in order of preference:
 - (1) an individual who has previously adopted a sibling of the minor and who makes a written request to adopt the minor;
 - (2) an individual with characteristics requested by a parent or guardian, ~~if the agency agrees to comply with the request~~ and locates the individual within a time agreed to by the parent or guardian and the agency;
 - (3) an individual who has had physical custody of the minor for six months or more within the preceding 24 months or for half of the minor's life, whichever is less, and makes a written request to adopt the minor;
 - (4) a relative with whom the minor has established a positive emotional relationship and who makes a written request to adopt the minor; and
 - (5) any other individual selected by the agency.
- (c) Unless necessary to comply with a request under subsection (b)(2), an agency may not delay or deny a minor's placement for adoption solely on the basis of the minor's race, national origin, or ethnic background. A guardian ad litem of a minor or an individual with a favorable preplacement evaluation who makes a written request to an agency to adopt the minor may maintain an action or proceeding for equitable relief against an agency that violates this subsection.
- (d) If practicable and in the best interest of minors who are siblings, an agency shall place siblings with the same prospective adoptive parent selected in accordance with subsections (a) through (c).
- (e) If an agency places a minor pursuant to subsection (a)(2), an individual described in paragraph (b)(3) may commence an action or proceeding within 30 days **after** the placement to challenge the agency's placement. If the individual proves by a preponderance of the evidence that the minor has substantial emotional ties to the individual and that an adoptive placement of the minor with the individual would be in the best interest of the minor, the court shall place the minor with the individual.

SECTION 2-105. RECRUITMENT OF ADOPTIVE PARENTS BY AGENCY.

An agency receiving public funds pursuant to Title IV-E of the federal Adoption Assistance and Child Welfare Act, 42 U.S.C. 670 et seq., or pursuant to the [State's adoption subsidy program], shall make a diligent search for and actively recruit prospective parents for minors in the agency's custody who are entitled to funding from those sources and who are **difficult** to place for adoption because of a special need as described in [the applicable law on minors with special needs]. The Department shall prescribe the procedure for recruiting prospective adoptive parents pursuant to this section- *Needs expansion.*

SECTION 2-106. DISCLOSURE OF INFORMATION ON BACKGROUND.

- (a) As early as practicable fore a prospective adoptive parent accepts physical custody of a minor, a person placing the minor for adoption shall furnish to the prospective adoptive parent a written report containing all of the following information reasonably available from any person who has had legal or physical custody of the minor or who has provided medical, psychological, educational, or similar services to the minor:
 - (1) a current medical and psychological history of the minor, including an account of the minor's prenatal care, medical condition at birth, any drug or medication taken by the minor's mother during pregnancy, any subsequent medical, psychological, or psychiatric examination and diagnosis, any physical, sexual, or emotional abuse suffered by the minor, and a record of any immunizations and health care received while in foster or other care;
 - (2) relevant information concerning the medical and psychological history of the minor's genetic parents and relatives including any known disease or hereditary predisposition to disease, any addiction to drugs or alcohol the health of the minor's mother during her pregnancy, the health of each parent at the minor's birth; and
 - (3) relevant information concerning the social history of the minor and the minor's parents and relatives, including:
 - (i) the minor's enrollment and performance in school, results of educational testing, and any special educational needs;
 - (ii) the minor's racial, ethnic, and religious background, tribal affiliation, and a general description of the minor's parents;
 - (iii) an account of the minor's past and existing relationship with any individual with whom the minor has regularly lived or visited;
 - (iv) the level of educational and vocational achievement of the minor's parents and relatives and any noteworthy accomplishments;
 - (4) information concerning a criminal conviction of a parent for a felony, a judicial order terminating the parental rights of a parent, and a proceeding in which the parent was alleged to have abused, neglected, abandoned, or otherwise mistreated the minor, a sibling of the minor, or the other parent;
 - (5) information concerning a criminal conviction or delinquency adjudication of the minor; **and**
 - (6) information necessary to determine the minor's eligibility for state or federal benefits, including subsidies for adoption and other financial, medical, or similar assistance.
- (b) Before a hearing on a petition for adoption, the person who placed a minor for adoption shall furnish to the prospective adoptive parent a supplemental written report containing information required by subsection (a) which was unavailable before the minor was placed for adoption, but becomes reasonably available to the person after the placement.
- (c) The court may request that a respondent in a proceeding under Article 3. Part 5, supply the information required by this section.
- (d) A report furnished under this section must indicate who prepared the report and, unless confidentiality has been waived, be edited to exclude the identity of any individual who furnished information or about whom information is reported.
- (e) Information furnished under this section may not be used as evidence in any civil or criminal proceeding against an individual who is the subject of the information.
- (f) The Department shall prescribe forms designed to obtain the specific information sought under this section and shall furnish the forms to a person who is authorized to place a minor for adoption

or who provides services with respect to placements for adoption.

SECTION 2-107. INTERSTATE PLACEMENT.

An adoption in this State of a minor brought into this State from another State by a prospective adoptive parent, or by a person who places the minor for adoption in this State, is governed by the laws of this State, including this [Act] and the Interstate Compact on the Placement of Children.

SECTION 2-108. INTERCOUNTRY PLACEMENT.

An adoption in this State of a minor brought into this State ~~from~~ another country by a prospective adoptive parent, or by a person who places the minor for adoption in this State, is governed by this [Act], subject to any convention or treaty on intercountry adoption which the United States has ratified and any relevant federal law.

PART 2. PREPLACEMENT EVALUATION

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SECTION 2-201. PREPLACEMENT EVALUATION REQUIRED.

- (a) Except as otherwise provided in subsections (b) and (c), only an individual for whom a favorable written preplacement evaluation has been prepared may accept custody of a minor for purposes of adoption. An evaluation is favorable if it contains a finding that the individual is suited to be an adoptive parent, either in general or for a particular minor, and it is completed or brought current within the ~~18 months~~ ¹² next preceding a placement of a minor with the individual for adoption.
- ~~(b) A court may waive the requirement of a preplacement evaluation for good cause shown, but an individual who is the subject of a waiver must be evaluated during the pendency of a proceeding for adoption.~~
- (c) A preplacement evaluation is not required if a parent or guardian places a minor directly with a relative of the minor for purposes of adoption, but an evaluation of the relative is required during the pendency of a proceeding for adoption.

SECTION 2-202. PREPLACEMENT EVALUATOR. . *Must be licensed*

- (a) A preplacement evaluation may be prepared only by an individual qualified by [a state-approved licensing, certifying, or other procedure] to make the evaluation.
- ~~(b) An agency from which an individual is seeking to adopt a minor may require the individual to be evaluated by its own qualified employee or independent contractor, even if the individual has received a favorable preplacement evaluation from another qualified evaluator.~~

SECTION 2-203. TIMING AND CONTENT OF PREPLACEMENT EVALUATION.

- (a) An individual requesting a preplacement evaluation need not have located a prospective minor adoptee when the request is made, and the individual may request more than one evaluation.
- (b) A preplacement evaluation must be completed within 45 days after it is requested. An evaluator shall give priority to a request from an individual who has located a prospective adoptee.
- (c) A preplacement evaluation must be based upon a personal interview and visit at the residence of the individual being evaluated, personal interviews with others who know the individual and may have information relevant to the evaluation, and the information required by subsection (d).
- (d) A preplacement evaluation must contain the following information about the individual being evaluated:

- (1) age and date of birth, 'nationality, racial or **ethnic** background, and any religious affiliation;
- (2) marital status and family history, including the age and location of any child of the individual and the identity of and relationship to anyone else living in the individual's household;
- (3) physical and mental health, and any history of abuse of alcohol or drugs;
- (4) educational and employment history and any special skills;
- (5) property and income, including outstanding financial obligations as indicated in a current credit report or financial statement furnished by the individual;
- (6) any previous request for an evaluation or involvement in an adoptive placement and the outcome of the evaluation or placement;
- (7) whether the individual has been subject to a restraining order ~~for~~, or charged with, domestic violence, charged with a violation of [the State's child protection statute] listed on [the State's child abuse or neglect registry], and the disposition of the charges, or subject to a court order restricting the individual's right to custody or visitation with a child;
- (8) whether the individual has been convicted of a crime other than a minor traffic violation;
- (9) whether the individual has located a parent interested in placing a minor with the individual for adoption and, if so, a brief description of the parent and the minor; and
- (10) any other fact or circumstance that may be relevant in determining whether the individual is suited to be an adoptive parent, including the quality of the environment in the home and the functioning of other children in the individual's household.
- (e) An individual being evaluated must submit to fingerprinting and sign a release permitting the evaluator to obtain from an appropriate law enforcement agency any record indicating that the individual has been convicted of a crime other than a minor traffic violation.
- (f) An individual being evaluated shall, at the request of the evaluator, sign any release necessary for the evaluator to obtain information required by subsection (d).

SECTION 2-204. DETERMINING SUITABILITY TO BE ADOPTIVE PARENT.

- (a) An evaluator shall assess the information required by Section 2-203 to determine whether it raises a specific concern that placement of any minor, or a particular minor, in the home of the individual would pose a significant risk of harm to the physical or psychological well-being of the minor.
- (b) If an evaluator determines that the information assessed does not raise a specific concern, the evaluator shall **find** that the individual is suited to be an adoptive parent. The evaluator may comment about any factor that in the evaluator's opinion makes the individual suited in general or for a particular minor.
- (c) If an evaluator determines that the information assessed does raise a specific concern, the evaluator, on the basis of the original or any further investigation, shall find that the individual is or is not suited to be an adoptive parent. The evaluator shall support the finding with a written explanation.

SECTION 2-205. FILING AND COPIES OF PREPLACEMENT EVALUATION.

- (a) If a preplacement evaluation contains a finding that an individual is suited to be an adoptive parent, the evaluator shall give the individual a signed copy of the evaluation. At the individual's request, the evaluator shall **furnish** a copy of the evaluation to a person authorized under this [Act] to place a minor for adoption and, unless the individual requests otherwise, edit the copy to exclude identifying information.
- (b) If a preplacement evaluation contains a finding that an individual is not suited to be an adoptive parent of any minor, or a particular minor, the evaluator shall immediately give a signed copy of the evaluation to the individual and to the Department. The Department shall retain for 10 years the copy and a copy of any court order concerning the evaluation issued pursuant to Section 2-206 or 2-207.
- (c) An evaluator shall retain for ³~~two~~ years the original of a completed or incomplete preplacement evaluation and a list of every source for each item of information in the evaluation.
- (d) An evaluator who conducted an evaluation in good faith is not subject to civil liability for

anything contained in the evaluation.

SECTION 2-206. REVIEW OF EVALUATION.

- (a) Within 90 days **after** an individual receives a **preplacement** evaluation with a finding that he or she is not suited to be an adoptive parent, the individual may petition a court for review of the evaluation.
- (b) If the court determines that the petitioner has failed to prove suitability by a preponderance of the evidence, it shall order that the petitioner not be permitted to adopt a minor and shall send a copy of the order to the Department to be retained with the copy of the original evaluation. ~~If, at the time of the court's determination, the petitioner has custody of a minor for purposes of adoption, the court shall make an appropriate order for the care and custody of the minor.~~
- (c) If the court determines that the petitioner has proved suitability, the court shall find the petitioner suitable to be an adoptive parent and the petitioner may commence or continue a proceeding for adoption of a minor. The court shall send a copy of its order to the Department to be retained with the copy of the original evaluation.

petitioner
may not have
custody prior
to evaluation.
sec. 2-201 (a)

SECTION 2-207. ACTION BY DEPARTMENT.

If, before a decree of adoption is issued, the Department learns from an evaluator or another person that a minor has been placed for adoption with an individual who is the subject of a preplacement evaluation on file with the Department containing a finding of unsuitability, the Department shall immediately review the evaluation and investigate the circumstances of the placement and may request that the individual return the minor to the custody of the person who placed the minor or to the Department. If the individual refuses to return the minor, the Department shall immediately commence an action or proceeding to remove the minor from the home of the individual pursuant to the [State's child protection statute] and, pending a hearing, the court shall make an appropriate order for the care and custody of the minor.

see
above

No
need this
for unlawful
placements

PART 3. TRANSFER OF PHYSICAL CUSTODY OF MINOR BY HEALTH-CARE FACILITY OR ATTENDING PRACTITIONER FOR PURPOSES OF ADOPTION

[\[ToC\]](#) [\[Prev Part\]](#) [\[Next Part\]](#)

SECTION 2-301. "HEALTH-CARE FACILITY" DEFINED.

In this Part, "health-care facility" means a hospital, clinic, or other facility authorized by this State to provide services related to birth and neonatal care.

SECTION 2-302. AUTHORIZATION TO TRANSFER PHYSICAL CUSTODY.

- (a) A health-care facility shall release a minor for the purpose of adoption to an individual or agency not otherwise legally entitled to the physical custody of the minor if, in the presence of an employee authorized by the health-care facility, the woman who gave birth to the minor signs an authorization of the transfer of physical custody.
- (b) The attending practitioner or authorized employee in whose presence the authorization required under this section is signed shall attest the signing in writing.

SECTION 2-303. REPORTS TO DEPARTMENT.

- (a) No later than 72 hours **after** a release pursuant to Section 2-302, a health-care facility that releases a minor for purposes of adoption shall transmit to the Department a copy of the authorization required by Section 2-302 and shall report:

- o (1) the name, address, and telephone number of the person who authorized the release;
 - o (2) the name, address, and telephone number of the person to whom physical custody was transferred; and
 - o (3) the date of the transfer.
- (b) No later than 30 days after a release pursuant to Section 2-302, the person to whom physical custody of a minor was transferred shall report to the Department which, if any, of the following has occurred:
- o (1) the filing of a petition for adoption with the name and address of the petitioner;
 - o (2) the acquisition of custody of the minor by an agency and the name and address of the agency;
 - o (3) the return of the minor to a parent or other person having legal custody and the name and address of the parent or other person; or
 - o (4) the transfer of physical custody of the minor to another individual and the name and address of the individual. *Should have specific wording to disallow this option*

SECTION 2-304. ACTION BY DEPARTMENT.

- (a) If the Department receives a report required under Section 2-303(a) from a health-care facility or attending practitioner, but does not receive the report required under Section 2-303(b) within 45 days after the transfer of a minor, the Department shall immediately investigate to determine the whereabouts of the minor.
- ~~(b) If none of the dispositions listed in Section 2-303(b)(1) through (3) has occurred, or the minor has been transferred to an individual described in Section 2-303(b)(4) who has not filed a petition to adopt, the Department shall immediately take appropriate action to remove the minor from the individual to whom the minor has been transferred.~~
- (c) The Department may also review and investigate compliance with the provisions of Sections 2-101 through 2-106 and may bring action in the [] court to require compliance.

PART 4. CONSENT TO AND RELINQUISHMENT FOR ADOPTION

[ToC] [Prev Part]

SECTION 2-401. PERSONS WHOSE CONSENT REQUIRED.

- (a) Unless consent is not required or is dispensed with by Section 2-402, in a direct placement of a minor for adoption by a parent or guardian authorized under this [Act] to place the minor, a petition to adopt the minor may be granted only if consent to the adoption has been executed by:
 - o (1) the woman who gave birth to the minor and the man, if any, who:
 - (i) is or has been married to the woman if the minor was born during the marriage or within 300 days after the marriage was terminated or a court issued a decree of separation;
 - (ii) attempted to marry the woman before the minor's birth by a marriage solemnized in apparent compliance with the law, although the attempted marriage is or could be declared invalid, if the minor was born during the attempted marriage or within 300 days after the attempted marriage was terminated;
 - (iii) under applicable law, has been judicially determined to be the father of the minor, or has signed a document which has the effect of establishing his parentage of the minor, and:
 - (A) has provided, in accordance with his financial means, reasonable and consistent payments for the support of the minor and has visited or communicated with the minor; or
 - (B) after the minor's birth, but before the minor's placement for adoption, has married or attempted to marry the woman who gave birth to the minor by a

- marriage solemnized in apparent compliance with the law, although the attempted marriage is or could be declared invalid; or
- (iv) has received the minor into his home and openly held out the minor as his child;
 - (2) the minor's guardian if expressly authorized by a court to consent to the minor's adoption; or
 - (3) the current adoptive or other legally recognized mother and father of the minor.
- (b) Unless consent is not required under Section 2-402, in a placement of a minor for adoption by an agency authorized under this [Act] to place the minor, a petition to adopt the minor may be granted only if consent to the adoption has been executed by:
- (1) the agency that placed the minor for adoption; and
 - (2) an individual described in subsection (a) who has not relinquished the minor.
- (c) Unless the court dispenses with the minor's consent, a petition to adopt a minor who has attained 12 years of age may be granted only if, in **addition** to any consent required by subsections (a) and (b), the minor has executed an informed consent to the adoption.

SECTION 2-402. PERSONS WHOSE CONSENT NOT REQUIRED.

- (a) Consent to an adoption of a minor is not required of:
 - (1) an individual who has relinquished the minor to an agency for purposes of adoption;
 - (2) an individual whose parental relationship to a minor has been terminated or determined not to exist;
 - (3) a parent who has been judicially declared incompetent;
 - (4) a man who has not been married to the woman who gave birth to the minor and who, after the conception of the minor, executes a verified statement denying paternity or disclaiming any interest in the minor and acknowledging that his statement shall be irrevocable when executed;
 - (5) the personal representative of a deceased parent's estate; or
 - (6) a parent or other person who has not executed a consent or a relinquishment and who fails to file an answer or an appearance in a proceeding for adoption or for termination of a parental relationship ~~within the requisite time~~ after service of notice of the proceeding.
- (b) The court may dispense with the consent of
 - (1) a guardian or an agency whose consent is otherwise required upon a finding that the consent is being withheld contrary to the best interest of a minor adoptee; or
 - (2) a minor adoptee who has attained 12 years of age upon a finding that it is not in the best interest of the minor the require the consent.

SECTION 2-403. INDIVIDUALS WHO MAY RELINQUISH MINOR.

A parent or guardian whose consent to the adoption of a minor is required by Section 2-401 may relinquish to an agency all of the individual's rights with respect to the minor, including legal and physical custody and the right to consent to the minor's adoption.

SECTION 2-404. TIME FOR EXECUTION OF CONSENT OR RELINQUISHMENT.

- (a) A parent whose consent to the adoption of a minor is required by Section 2-401 may execute a consent or a relinquishment only after the minor is born. A parent who executes a consent or relinquishment may revoke the consent or relinquishment within 192 hours after the birth of the minor.
- (b) A guardian may execute a consent to the adoption of a minor or a relinquishment at any time after being authorized by a court to do so.
- (c) An agency that places a minor for adoption may execute its consent at any time at or before the hearing on the petition for adoption.
- (d) A minor adoptee whose consent is required may execute a consent at any time at or before the hearing on the petition for adoption.
- (e) Before executing a consent or relinquishment, a parent must have been informed of the following:

- (1) meaning and consequences of adoption, - ^{or required} personal and legal counseling, the procedure for releasing information about the health and other characteristics of the parent which may affect the physical or psychological well-being of the adoptee, ⁽²⁾ and the procedure for the consensual release of the parent's identity to an adoptee, and adoptee's direct descendant, or an adoptive parent pursuant to Article 6. the parent must have had an opportunity to indicate in a signed document whether and under what circumstances the parent is or is not willing to release identifying information, and must have been informed of the procedure for changing the documents-at-a-later-time. (Y) disclosure that original adoption records, including identifying information will be available to adoptee upon reaching the age of 18 years, or to the adoptive parents, if adoptee under the age of 18 years. (3) must be given opportunity to deny release of identifying information in the form of a written statement reversed at any time.

SECTION 2-405. PROCEDURE FOR EXECUTION OF CONSENT OR RELINQUISHMENT.

- (a) A consent or relinquishment executed by a parent or guardian must be signed or confirmed in the presence of:
 - (1) a judge of a court of record;
 - (2) an individual designated by a judge to take consents or relinquishments;
 - (3) an employee designated by an agency to take consents or relinquishments, but not an employee of an agency to which a minor is relinquished;
 - (4) a lawyer other than a lawyer who is representing an adoptive parent or the agency to which a minor is relinquished;
 - (5) a commissioned officer on active duty in the military service of the United States, if the individual executing the consent or relinquishment is in military service; or
 - (6) an officer of the foreign service or a consular officer of the United States in another country, if the individual executing the consent or relinquishment is in that country.
- (b) A consent executed by a minor adoptee must be signed or confirmed in the presence of the court in the proceeding for adoption or in a manner the court directs.
- (c) Minority of a parent does not affect competency to execute a consent or relinquishment, but a parent who is a minor must have had access to counseling and must have had the advice of a lawyer who is not representing an adoptive parent or the agency to which the parent's child is relinquished.
- (d) An individual before whom a consent or relinquishment is signed or confirmed under subsection (a) shall certify in writing that he or she orally explained the contents and consequences of the consent or relinquishment, and to the best of his or her knowledge or belief, the individual executing the consent or relinquishment:
 - (1) read or was read the consent or relinquishment and understood it;
 - (2) signed the consent or relinquishment voluntarily;
 - (3) received or was offered a copy of the consent or relinquishment and the information described by Section 2-404(e) and was afforded an opportunity to sign the document described in that section;
 - (4) was offered counseling services and information about adoption; and
 - (5) if the individual executing the consent or relinquishment is a parent who is a minor, was advised by a lawyer who is not representing an adoptive parent or the agency to which the parent's child is being relinquished, and, if an adult, was informed of the right to have a lawyer who is not representing an adoptive parent or an agency to which the parent's child is being relinquished.
- (e) A prospective adoptive parent named or described in a consent to the adoption of a minor shall sign a statement indicating an intention to adopt the minor, acknowledging an obligation to return legal and physical custody of the minor to the minor's parent if the parent revokes the consent within the time specified in Section 2-404(a), and acknowledging responsibility for the minor's medical and other care and support if the consent is not revoked.
- (f) An employee of an agency to which a minor child is being relinquished shall sign a statement indicating the agency's willingness to accept the relinquishment, acknowledging its obligation to return legal and physical custody of the child to the minor's parent if the parent revokes the relinquishment within the time indicated in Section 2-404(a), and acknowledging responsibility for the minor's medical and other care and support if the relinquishment is not revoked.
- (g) An individual before whom a consent or relinquishment is signed or confirmed shall certify that the statements required by subsections (3) and (f) were given to him or her.

- (h) A consent by an agency to the adoption of a minor in the agency's legal custody must be executed by the executive head or another authorized employee and must be signed or confirmed under oath in the presence of an individual authorized to take acknowledgments.
- (i) A consent or relinquishment executed and signed or confirmed in another State or in another country is valid if in accord with this [Act] or with the law and procedure of the State or country in which executed.

SECTION 2-406. CONTENT OF CONSENT OR RELINQUISHMENT.

- (a) A consent or relinquishment required **from** a parent or guardian must be in writing and contain, in plain English or, if the native language of the parent or guardian is a language other than English, in that language:
 - (1) the date, place, and time of the execution of the consent or relinquishment;
 - (2) the name, date of birth, and current mailing address of the individual executing the consent or relinquishment;
 - (3) the date of birth and the name or pseudonym of the minor adoptee;
 - (4) if a consent, the name, address, and telephone and telecopier number of the lawyer representing the prospective adoptive parent with whom the individual executing the consent has placed or intends to place the minor for adoption;
 - (5) if a relinquishment, the name, address, and telephone and telecopier number of the agency to which the minor is being relinquished; and
 - (6) specific instructions for how a parent who executes a consent or relinquishment may revoke the consent or relinquishment or commence an action to set aside the consent or relinquishment.
- (b) A consent must state that the parent or guardian executing the document is voluntarily and unequivocally consenting to the transfer of legal and physical custody to, and the adoption of the minor by, a specific adoptive parent whom the parent or guardian has selected.
- (c) A relinquishment must state that the individual executing the relinquishment voluntarily consents to the permanent transfer of legal and physical custody of the minor to the agency for the purposes of adoption.
- (d) A consent or relinquishment must state:
 - (1) an understanding that after the consent or relinquishment is signed or **confirmed** in substantial compliance with Section 2-405, it is final and, except under a circumstance states in Section 2-408 or 2-409, may not be revoked or set aside for any reason, including the failure of an adoptive parent to permit the individual executing the consent or relinquishment to visit or communicate with the minor adoptee;
 - (2) an understanding that the adoption will extinguish all parental rights and obligations the individual executing the consent or relinquishment has with respect to the minor adoptee, except for arrearages of child support, and will remain valid whether or not any agreement for visitation or communication with the minor adoptee is later performed;
 - (3) that the individual executing the consent or relinquishment has:
 - (i) received a copy of the consent or relinquishment;
 - (ii) received or been offered counseling services and information about adoption which explains the meaning and consequences of an adoption;
 - (iii) been advised, if a parent who is a minor, by a lawyer who is not representing an adoptive parent or the agency to which the minor is being relinquished, or, if an adult, has been informed of the right to have a lawyer who is not representing an adoptive parent or the agency;
 - (iv) received the information described in Section 2-404(d) and been afforded an opportunity to sign the document described in that section; and
 - (v) been advised of the obligation to provide the information required under Section 2-106;
 - (4) that the individual executing the consent or relinquishment has not received or been promised any money or anything of value for the consent or the relinquishment, **except for** payments authorized by Article 7;
 - (5) that the minor is not an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq.;

- (6) that the individual believes the adoption of the minor is in the minor's best interest;
- (7) if a consent, that the individual who is consenting waives further notice unless the adoption is contested, appealed, or denied.
- (e) A relinquishment may provide that the individual who is relinquishing waives notice of any proceeding for adoption, or waives notice unless the adoption is contested, appealed, or denied.
- (f) A consent or relinquishment may provide for its revocation if:
 - (1) another consent or relinquishment is not executed within a specified period;
 - (2) a court decides not to terminate another individual's parental relationship to the minor; or
 - (3) in a direct placement for adoption, a petition for adoption by a prospective adoptive parent, named or described in the consent, is denied or withdrawn.

SECTION 2-407. CONSEQUENCES OF CONSENT OR RELINQUISHMENT.

- (a) Except under a circumstance stated in Section 2-408, a consent to the adoption of a minor which is executed by a parent or guardian in substantial compliance with Sections 2-405 and 2-406 is final and irrevocable, and:
 - (1) unless a court orders otherwise to protect the welfare of the minor, entitles the prospective adoptive parent named or described in the consent to the legal and physical custody of the minor and imposes on that individual responsibility for the medical and other care and support of the minor;
 - (2) terminates any duty of a parent who executed the consent with respect to the minor, except for arrearages of child support; and
 - (3) terminates any right of a parent or guardian who executed the consent to object to the minor's adoption by the prospective adoptive parent and any right to notice of the proceeding for adoption unless the adoption is contested, appealed, or denied.
- (b) Except under a circumstance stated in Section 2-409, a relinquishment of a minor to an agency' which is executed by a parent or guardian in substantial compliance with Sections 2-405 and 2-406 is final and irrevocable, and:
 - (1) unless a court orders otherwise to protect the welfare of the minor, entitles the agency to the legal custody of the minor until a decree of adoption becomes final;
 - (2) empowers the agency to place the minor for adoption, consent to the minor's adoption, and delegate to a prospective adoptive parent responsibility for the medical and other care and support of the minor;
 - (3) terminates any duty of the individual who executed the relinquishment with respect to the minor, except for arrearages of child support; and
 - (4) terminates any right of the individual who executed the relinquishment to object to the minor's adoption and, unless otherwise provided in the relinquishment, any right to notice of the proceeding for adoption.

SECTION 2-408. REVOCATION OF CONSENT.

- (a) In a direct placement of a minor for adoption by a parent or guardian, a consent is revoked if:
 - (1) within 192 hours after the birth of the minor, a parent who executed the consent notifies in writing the prospective adoptive parent, or the adoptive parent's lawyer, that the parent revokes the consent, or the parent complies with any other instructions for revocation specified in the consent;
 - (2) the individual who executed the consent and the prospective adoptive parent named or described in the consent agree to its revocation.
- (b) In a direct placement of a minor for adoption by a parent or guardian the court shall set aside the consent if the individual who executed the consent establishes:
 - (1) by clear and convincing evidence, before a decree of adoption is issued, that the consent was obtained by fraud or duress;
 - (2) by a preponderance of the evidence that, without good cause shown, a petition to adopt was not filed within 60 days after the minor was placed for adoption; or
 - (3) by a preponderance of the evidence, that a condition permitting revocation has occurred, as expressly provided for in the consent pursuant to Section 2-406(f)(1) through (3).

Conflicts
with time
limit under
Sec 2-303
and 3-302
(30)

- (c) If the consent of an individual who had legal and physical custody of a minor when the minor was placed for adoption or the consent was executed is revoked under subsection (a)(1) or (2), the prospective adoptive parent shall immediately return the minor to the individual's custody and move to dismiss any proceeding for adoption or termination of the individual's parental relationship to the minor. If the minor **is not** returned immediately, the individual may petition the court named in the consent for appropriate relief. The court shall hear the petition expeditiously.
- (d) If the consent of an individual who had legal and physical custody of a minor when the minor was placed for adoption or the consent was executed is set aside under subsection (b)(1), the court shall order the return of the minor to the custody of the individual and dismiss a pending proceeding for adoption.
- (e) If the consent of an individual who had legal and physical custody of a minor when the minor was placed for adoption or the consent was executed is set aside under subsection (b)(2) or (3) and no ground exists under Article 3, Part 5, for terminating the parental relationship between the individual and the minor, the court shall dismiss a pending proceeding for adoption and order the return of the minor to the custody of the individual, unless the court finds that return will be detrimental to the minor.
- (f) If the consent of an individual who did not have physical custody of a minor when the minor was placed for adoption or the consent was executed is revoked under subsection (a) or set aside under subsection (b) and no ground exists under Article 3, Part 5, for terminating the parental relationship between the individual and the minor, the court shall dismiss a pending proceeding for adoption and issue an order providing for the care and custody of the minor according to the best interest of the minor.

SECTION 2-409. REVOCATION OF RELINQUISHMENT.

- (a) A relinquishment is revoked if:
 - (1) within 192 hours after the birth of the minor, a parent who executed the relinquishment notifies in writing the agency to which the minor has been relinquished, that the parent revokes the relinquishment, or the parent complies with any other instructions for revocation specified in the relinquishment; or
 - (2) the individual who executed the relinquishment and the agency that accepted it agree to its revocation.
- (b) The court shall set aside a relinquishment if the individual who executed the relinquishment establishes:
 - (1) by clear and convincing evidence, before a decree of adoption is issued, that the relinquishment was obtained by fraud or duress; or
 - (2) by a preponderance of the evidence, that a condition permitting revocation has occurred, as expressly provided for in the relinquishment pursuant to Section 2-406(f)(1) through (3).
- (c) If a relinquishment by an individual who had legal and physical custody of a minor when the relinquishment was executed is revoked under subsection (a)(1) or (2), the agency shall immediately return the minor to the individual's custody and move to dismiss a proceeding for adoption. If the minor is not returned immediately, the individual may petition the court named in the relinquishment for appropriate relief. the court shall hear the petition expeditiously.
- (d) If a relinquishment by an individual who had legal and physical custody of a minor when the relinquishment was executed is set aside under subsection (b)(1), the court shall dismiss any proceeding for adoption and order the return of the minor to the physical custody of the individual.
- (e) If a relinquishment by an individual who -had legal and physical custody of a minor when the relinquishment was executed is set aside under subsection (b)(2) and no ground exists under Article 3, Part 5, for terminating the parental relationship between the individual and the minor, the court shall dismiss a proceeding for adoption and order the return of the minor to the custody of the individual, unless the court finds that return will be detrimental to the minor.
- (f) If a relinquishment by an individual who did not have physical custody of a minor when the relinquishment was executed is revoked under subsection (a) or set aside under subsection (b) and no ground exists under Article 3, Part 5, for terminating the parental relationship between the individual and the minor, the court shall dismiss a pending proceeding for adoption and shall issue an order providing for the care and custody of the minor according to the best interest of the minor.

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ARTICLE 3. GENERAL PROCEDURE FOR ADOPTION

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PART 1. JURISDICTION AND VENUE

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SECTION 3-101. JURISDICTION.

- (a) Except as otherwise provided in subsections **(b)** and (c), a court of this State has jurisdiction over a proceeding for the adoption of a minor commenced under this [Act] if:
 - (1) immediately preceding commencement of the proceeding, the minor lived in this State with a parent, a guardian, a prospective adoptive parent, or another person acting as parent, for at least six consecutive months, excluding periods of temporary absence, or, in the case of a minor under six months of age, lived in this State from soon after birth with any of those individuals and there is available in this State substantial evidence concerning the minor's present or future care;
 - (2) immediately preceding commencement of the proceeding, the prospective adoptive parent lived in this State for at least six consecutive months, excluding periods of temporary absence, and there is available in this State substantial evidence concerning the minor's present or future care;
 - (3) the agency that placed the minor for adoption is located in this State and it is in the best interest of the minor that a court of this State assume jurisdiction because:
 - (i) the minor and the minor's parents, or the minor and the prospective adoptive parent, have a significant connection with this State; and
 - (ii) there is available in this State substantial evidence concerning the minor's present or future care;
 - (4) the minor and the prospective adoptive parent are physically present in this State and the minor has been abandoned or it is necessary in an emergency to protect the minor because the minor has been subjected to or threatened with mistreatment or abuse or is otherwise neglected; or
 - (5) it appears that no other State would have jurisdiction under prerequisites substantially in accordance with paragraphs (1) through **(4)**, or another State has declined to exercise jurisdiction on the ground that this State is the more appropriate forum to hear a petition for adoption of the minor, and it is in the best interest of the minor that a court of this State assume jurisdiction.
- (b) A court of this State may not exercise jurisdiction over a proceeding for adoption of a minor if at the time the petition for adoption is filed a proceeding concerning the custody or adoption of the minor is pending in a court of another State exercising jurisdiction substantially in conformity with [the Uniform Child Custody Jurisdiction Act] or this [Act], unless the proceeding is stayed by the court of the other State because this State is a more appropriate forum or for another reason.
- (c) If a court of another State has issued a decree or order concerning the custody of a minor who may be the subject of a proceeding for adoption in this State, a court of this State may not exercise jurisdiction over a proceeding for adoption of the minor unless:
 - (1) the court of this State finds that the court of the State which issued the decree or order:
 - (i) does not have continuing jurisdiction to modify the decree or order under jurisdictional prerequisites substantially in accordance with [the Uniform Child Custody Jurisdiction Act] or has declined to assume jurisdiction to modify the decree or order; or
 - (ii) does not have jurisdiction over a proceeding for adoption substantially in conformity with subsection (a)(1) through (4) or has declined to assume jurisdiction

- over a proceeding for adoption; and
- (2) the court of this State has jurisdiction under this section over the proceeding for adoption.

SECTION 3-102. VENUE.

A petition for adoption of a minor may be filed in the court in the [county] in which:

- . (1) a petitioner lives;
- . (2) the minor lives; *or*
- . (3) an office of an agency that placed the minor is located.

PART 2. GENERAL PROCEDURAL PROVISIONS

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SECTION 3-201. APPOINTMENT OF LAWYER OR GUARDIAN AD LITEM.

- . (a) In a proceeding under this [Act] which may result in the termination of a parental relationship, the court shall appoint a lawyer for any indigent, minor, or incompetent individual who appears in the proceeding and whose parental relationship to a child may be **terminated**, unless the court **finds** that the minor or incompetent individual has sufficient financial means to hire a lawyer, or an indigent individual declines to be represented by a lawyer.
- . (b) The court shall appoint a guardian ad litem for a minor adoptee in a contested proceeding under this [Act] and may appoint a guardian ad litem for a minor adoptee in an uncontested proceeding. *Needs expansion.*

SECTION 3-202. NO RIGHT TO JURY.

A proceeding under this [Act] for adoption or termination of a parental relationship must be heard by the court without a jury.

SECTION 3-203. CONFIDENTIALITY OF PROCEEDINGS.

Except for a proceeding pursuant to Article 7, a civil proceeding under this [Act] must be heard in closed court.

SECTION 3-204. CUSTODY DURING PENDENCY OF PROCEEDING.

In order to protect the welfare of the minor, the court shall make an interim order for custody of a minor adoptee according to the best interest of the minor in a contested proceeding under this [Act] for adoption or termination of a parental relationship and may make an interim order for custody in an uncontested proceeding. *Needs additional clarification*

SECTION 3-205. REMOVAL OF ADOPTEE FROM STATE.

Before a decree of adoption is issued, a petitioner may not remove a minor adoptee for more than 30 consecutive days **from** the State in which the petitioner resides without the permission of the court, if the minor was placed directly for adoption, or, if an agency placed the minor for adoption, the permission of the agency.

PART 3. PETITION FOR ADOPTION OF MINOR

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SECTION 3-301. STANDING TO PETITION TO ADOPT.

- (a) Except as otherwise provided in subsection (c), the only individuals who have standing to petition to adopt a minor under this Article are:
 - ◻ (1) an individual with whom a minor has been placed for adoption or who has been selected as a prospective adoptive parent by a person authorized under this [Act] to place the minor for adoption; or
 - ◻ (2) an individual with whom a minor has not been placed for adoption or who has not been selected or rejected as a prospective adoptive parent pursuant to Article 2, Parts 1 through 3, but who has had physical custody of the minor for at least six months immediately before seeking to file a petition for adoption and is allowed to file the petition by the court for good cause shown.
- (b) The spouse of a petitioner must join in the petition **unless** legally separated from the petitioner or judicially declared mentally incompetent.
- (c) A petition for adoption of a minor stepchild by a stepparent may be filed under Article 4 and a petition for adoption of an emancipated minor may be filed under Article 5.

SECTION 3-302. TIME FOR FILING PETITION.

A prospective adoptive parent with standing under Section 3-301(a)(1) shall file a petition for adoption no later than 30 days after a minor is placed for adoption with that individual, unless the court allows a later filing.

SECTION 3-303. CAPTION OF PETITION.

~~The caption of a petition for adoption of a minor must contain the name of or a pseudonym for the minor adoptee and may not contain the name of the petitioner.~~

SECTION 3-304. CONTENT OF PETITION.

- (a) A petition for adoption of a minor must be signed and verified by the petitioner and contain the following information or state why any of the information omitted is not contained in the petition:
 - (1) the full name, age, and place and duration of residence of the petitioner;
 - (2) the current marital status of the petitioner, including the date and place of any marriage, the date of any legal separation or divorce, and the date of any judicial determination that a petitioner's spouse is incompetent;
 - (3) that the petitioner has facilities and resources to provide for the care and support of the minor;
 - (4) that a **preplacement** evaluation favorable to the petitioner has been completed or brought current within the ~~1~~ **2** months next preceding the placement, ~~or that a preplacement e. & v. & on - has been - was or is not required under~~ Section 2-201;
 - (5) the first name, sex, and the date, or approximate date, and place of birth of the minor adoptee, and a statement that the minor is or is not an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. §§ 1901 et seq.;
 - (6) the circumstances under which the petitioner obtained physical custody of the minor, including the date of placement of the minor with the petitioner for adoption and the name of the agency or the name or relationship to the minor of the individual that placed the minor;
 - (7) the length of time the minor has been in the custody of the petitioner and, if the minor is not in the physical custody of the petitioner, the reason why the petitioner does not have custody and the date and manner in which the petitioner intends to obtain custody;
 - (8) a description and estimate of the value of any property of the minor;

- (9) that any provision of law governing interstate or intercountry placement was complied with;
- (10) the name or relationship to the minor of any individual who has executed a consent or relinquishment to the adoption or a disclaimer of paternal interest, and the name or relationship to the minor of any individual whose consent or relinquishment may be required, but whose parental relationship has not been terminated, and any fact or circumstance that may excuse the lack of consent;
- (11) that a previous petition by the petitioner to adopt has or has not been made in any court, and its disposition; and
- (12) a description of any previous court order or pending proceeding known to the petitioner concerning custody of or visitation with the minor and any other fact known to the petitioner and needed to establish the jurisdiction of the court.
- (b) The petitioner shall request in the petition:
 - (1) that the petitioner be permitted to adopt the minor as the petitioner's child;
 - (2) that the court approve the full name by which the minor is to be known if the petition is granted; and
 - (3) any other relief sought by the petitioner.

SECTPON 3-305. REQUIRED DOCUMENTS.

- (a) Before the hearing on the petition for adoption, the following must be filed in the proceeding:
 - (1) a certified copy of the birth certificate or other record of the date and place of **birth** of the minor adoptee;
 - (2) any consent, relinquishment, or disclaimer of paternal interest with respect to the minor that has been executed, and any written certifications required by Section 2-405(d) and (g) from the individual before whom a consent or relinquishment was executed;
 - (3) a certified copy of any court order terminating the rights and duties of the minor's parents or guardian;
 - (4) a certified copy of each parent's or former parent's marriage certificate, decree of divorce, annulment, or dissolution, or agreement or decree of legal separation, and a certified copy of any court order determining the parent's or former parent's incompetence;
 - (5) a certified copy of any existing court order or the petition in any pending proceeding concerning custody of or visitation with the minor;
 - (6) a copy of the **preplacement** evaluation and of the evaluation during the **pendency** of the proceeding for adoption;
 - (7) a copy of any report containing the information required by Section 2-106;
 - (8) a document signed pursuant to Section 2-404(e);
 - (9) a certified copy of the petitioner's marriage certificate, decree of divorce, annulment, or dissolution, or agreement or decree of legal separation, and a certified copy of any court order determining the incompetence of the petitioner's spouse;
 - (10) a copy of any agreement with a public agency to provide a subsidy for the benefit of a minor adoptee with a special need;
 - (11) if an agency placed the minor adoptee, a verified document from the agency stating:
 - (i) the circumstances under which it obtained custody of the minor for purposes of adoption;
 - (ii) that it complied with any provision of law governing an interstate or intercountry placement of the minor;
 - (iii) the name or relationship to the minor of any individual whose consent is required, but who has not executed a consent or a relinquishment or whose parent relationship has not been terminated, and any fact or circumstance that may excuse the lack of consent or relinquishment; and
 - (iv) whether it has executed its consent to the proposed adoption and whether it waives notice of the proceeding; and
 - (12) the name and address, if known, of any person who is entitled to receive notice of the proceeding for adoption.
- (b) If an item required by subsection (a) is not available, the person responsible for **furnishing** the item shall file an affidavit explaining its absence.

PART 4. NOTICE OF PENDENCY OF PROCEEDING

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SECTION 3-401. SERVICE OF NOTICE.

- (a) Unless notice has been waived, notice of a proceeding for adoption of a minor must be served, within 20 days after a petition to adopt is filed, upon:
 - (1) an individual whose consent to the adoption is required under [Section 2-401](#), but notice need not be served upon an individual whose parent relationship to the minor or whose status as a guardian has been terminated;
 - (2) an agency whose consent to the adoption is required under [Section 2-401](#);
 - (3) an individual whom the petitioner knows is claiming to be or who is named as the father or possible father of the minor adoptee and whose paternity of the minor has not been judicially determined, but notice need not be served upon a man who has executed a verified statement, as described in [Section 2-402\(a\)\(4\)](#), denying paternity or disclaiming any interest in the minor;
 - (4) an individual other than the petitioner who has legal or physical custody of the minor adoptee or who has a right of visitation with the minor under an existing court order issued by a court in this or another State;
 - (5) the spouse of the petitioner if the spouse has not joined in the petition; and
 - (6) a grandparent of a minor adoptee if the grandparent's child is a deceased parent of the minor and, before death, the deceased parent had not executed a consent or relinquishment or the deceased parent's parental relationship to the minor had not been terminated.
- (b) The court shall require notice of a proceeding for adoption of a minor to be served upon any person the court finds, at any time during the proceeding, is:
 - (1) a person described in subsection (a) who has not been given notice;
 - (2) an individual who has revoked a consent or relinquishment pursuant to [Section 2-408\(a\)](#) or [2-409\(a\)](#) or is attempting to have a consent or relinquishment set aside pursuant to [Section 2-408\(b\)](#) or [2-409\(b\)](#); or
 - (3) a person who, on the basis of a previous relationship with the minor adoptee, a parent, an alleged parent, or the petitioner, can provide information that is relevant to the proposed adoption and that the court in its discretion wants to hear.

SECTION 3-402. CONTENT OF NOTICE.

A notice required by [Section 3-401](#) must use a pseudonym for a petitioner or any individual named in the petition for adoption who has not waived confidentiality and must contain:

- (1) the caption of the petition;
- (2) the address and telephone number of the court where the petition is pending;
- (3) a concise summary of the relief requested in the petition;
- (4) the name, mailing address, and telephone number of the petitioner or petitioner's lawyer;
- (5) a conspicuous statement of the consequences of failure to respond to the notice of the proceeding for adoption and the method of responding; and
- (6) any statement required by [other applicable law or rule].

SECTION 3-403. MANNER AND EFFECT OF SERVICE.

- (a) Personal service of the notice required by [Section 3-401](#) must be made in a manner appropriate under [the rules of civil procedure for the service of process in a civil action in this State] unless the court otherwise directs.
- (b) Except as otherwise provided in subsection (c), a person who fails to respond to the notice

within 20 days after its service is not entitled to participate in or receive further notice of the proceeding for adoption.

- (c) An individual who is a respondent in a petition to terminate the relationship of parent and child pursuant to part 5 which is served upon the individual with the notice required by Section 3-401 is not entitled to participate in or receive further notice of the proceeding for adoption or for termination unless the individual responds to the notice as required by Section 3-504.

SECTION 3-404. INVESTIGATION AND NOTICE TO UNKNOWN FATHER.

- (a) If, at any time ¹ in a proceeding for adoption or for termination of a relationship of parent and child under Part 5, the court finds that an unknown father of a minor adoptee may not have received notice, the court shall determine whether he can be identified. The determination must be based on evidence that includes inquiry of appropriate persons in an effort to identify an unknown father for the purpose of providing notice.
- (b) The inquiry required by subsection (a) must include whether:
 - (1) the woman who gave birth to the minor adoptee was married at the probable time of conception of the minor, or at a later time;
 - (2) the woman was cohabiting with a man at the probable time of conception of the minor;
 - (3) the woman has received payments or promises of support, other than from a governmental agency, with respect to the minor or because of her pregnancy;
 - (4) the woman has named any individual as the father on the birth certificate of the minor or in connection with applying for or receiving public assistance; and
 - (5) any individual has formally or informally acknowledged or claimed paternity of the minor in a jurisdiction in which the woman resided during or since her pregnancy, or in which the minor has resided or resides, at the time of the inquiry.
- (c) If inquiry pursuant to subsection (b) identifies as the father of the minor an individual who has not received notice of the proceeding, the court shall require notice to be served upon him pursuant to Section 3-403, unless service is not possible because his whereabouts are unknown.
- (d) If, after inquiry pursuant to subsection (b), the court finds that personal service cannot be made upon the father of the minor because his identity or whereabouts is unknown, the court shall order publication or public posting of the notice only if, on the basis of all information available, the court determines that publication or posting is likely to lead to receipt of notice by the father. If the court determines that publication or posting is not likely to lead to receipt of notice, the court may dispense with the publication or posting of a notice.
- (e) If, in an inquiry pursuant to this section, the woman who gave birth to the minor adoptee fails to disclose the identity of a possible father or reveal his whereabouts, she must be advised that the proceeding for adoption may be delayed or subject to challenge if a possible father is not given notice of the proceeding and that the lack of information about the father's medical and genetic history may be detrimental to the adoptee.

SECTION 3-405. WAIVER OF NOTICE.

- (a) Notice required under this [Act] may be waived before the court or in a consent, relinquishment, or other document signed by a person entitled to receive the notice.
- (b) Except for the purpose of moving to revoke a consent or relinquishment on the ground that it was obtained by fraud or duress, a person who has waived notice may not appear in the proceeding for adoption.

PART 5. PETITION TO TERMINATE RELATIONSHIP BETWEEN PARENT AND CHILD

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SECTION 3-501. AUTHORIZATION.

A petition to terminate the relationship between a parent or an alleged parent and a minor child may be filed in a proceeding for adoption under this [Act] by:

- (1) a parent or guardian who has selected a prospective adoptive parent for a minor and who intends to place, or has placed, the minor with that individual;
- (2) a parent whose spouse has filed a petition under Article 4 to adopt the parent's minor child;
- (3) a prospective adoptive parent of the minor who has filed a petition to adopt under this Article or Article 4 or
- (4) an agency that has selected a prospective adoptive parent for the minor and intends to place, or has placed, the minor with that individual.

SECTION 3-502. TIME AND CONTENT OF PETITION.

- (a) A petition under this Part may be filed at any time after a petition for adoption has been filed under this **Article** or Article 4 and before entry of a decree of adoption.
- (b) A petition under this Part must be signed and verified by the petitioner, be filed with the court, and state:
 - (1) the name ~~or pseudonym~~ of the petitioner;
 - (2) the name of the minor;
 - (3) the name and last known address of the parent or alleged parent whose parental relationship to the minor is to be terminated;
 - (4) the facts and circumstances forming the basis for the petition and the grounds on which termination of a parental relationship is sought;
 - (5) if the petitioner is a prospective adoptive parent, that the petitioner intends to proceed with the petition to adopt the minor if the petition to terminate is granted; and
 - (6) if the petitioner is a parent, a guardian, or an agency, that the petitioner has selected the prospective adoptive parent who is the petitioner in the proceeding for adoption.

SECTION 3-503. SERVICE OF PETITION AND NOTICE.

- (a) A petition to terminate under this Part and a notice of hearing on the petition must be served upon the respondent, with notice of the proceeding for adoption, in the manner prescribed in Sections 3-403 and 3-404.
- (b) The notice of the hearing must inform the respondent of the method for responding and that:
 - (1) the respondent has a right to be represented by a lawyer, and may be entitled to have a lawyer appointed by the court; and
 - (2) failure to respond within 20 days after service, and, in the case of an alleged father, failure to file a claim of paternity within 20 days after service, unless a claim of paternity is pending, will result in termination of the relationship of parent and child between the respondent and the minor, unless the proceeding for adoption is dismissed.

SECTION 3-504. GROUNDS FOR TERMINATING RELATIONSHIP.

- (a) If the respondent is served with a petition to terminate under this Part and the accompanying notice and does not respond, and, in the case of an alleged father, file a claim of paternity within 20 days after the service, unless a claim of paternity is pending, the court shall order the termination of any relationship of parent and child between the respondent and the minor unless the proceeding for adoption is dismissed.
- (b) If, under Section 3-404, the court dispenses with service of the petition upon the respondent, the court shall order the termination of any relationship of parent and child between the respondent and the minor unless the proceeding for adoption is dismissed.
- (c) If the respondent asserts parental rights, the court shall proceed with the hearing expeditiously and may order the termination of any relationship of parent and child between the respondent and the minor upon finding, upon clear and convincing evidence, that one of the following grounds

exists, and, by a preponderance of the evidence, that termination is in the best interest of the minor:

- (1) in the case of a minor who has not attained six months of age at the time the petition for adoption is filed, unless the respondent proves by a preponderance of the evidence a compelling reason for not complying with this paragraph, the respondent has failed to:
 - (i) pay reasonable prenatal, natal, and postnatal expenses in accordance with the respondent's financial means;
 - (ii) make reasonable and consistent payments, in accordance with the respondent's **financial** means, for the support of the minor;
 - (iii) visit regularly with the minor; and
 - (iv) manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent;
- (2) in the case of a minor who has attained six months of age at the time a petition for adoption is filed, unless the respondent proves by a preponderance of the evidence a compelling reason for not complying with this paragraph, the respondent, for a period of at least six consecutive months immediately preceding the filing of the petition, has failed to:
 - (i) make reasonable and consistent payments, in accordance with the respondent's means, for the support of the minor;
 - (ii) communicate or visit regularly with the minor; and
 - (iii) manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent;
- (3) the respondent has been convicted of a crime of violence or of violating a restraining or protective order, and the facts of the crime or violation and the respondent's behavior indicate that the respondent is unfit to maintain a relationship of parent and child with the minor;
- (4) the respondent is a man who was not married to the minor's mother when the minor was conceived or born and is not the biological or adoptive father of the minor; or
- (5) termination is justified on a ground specified in [the State's statute for involuntary termination of parental rights].
- (d) If the respondent proves by a preponderance of the evidence that he or she had a compelling reason for not complying with the requirements of subsection (c)(1) or (2) and termination is not justified on a ground stated in subsection (c)(3) through (5), the court may terminate the respondent's parental relationship to a minor only upon a finding, upon clear and convincing evidence, that one of the following grounds exists and, by a preponderance of the evidence that termination is in the best interest of the minor:
 - (1) if the minor is not in the legal and physical custody of the other parent, the respondent is not able or willing promptly to assume legal and physical custody of the minor, and to pay for the minor's support, in accordance with the respondent's financial means;
 - (2) if the minor is in the legal and physical custody of the other parent and a stepparent, and the stepparent is the prospective adoptive parent, the respondent is not able or willing promptly to establish and maintain contact with the minor and to pay for the minor's support, in accordance with the respondent's financial means;
 - (3) placing the minor in the respondent's legal and physical custody would pose a risk of substantial harm to the physical or psychological well-being of the minor because the circumstances of the minor's conception, the respondent's behavior during the mother's pregnancy or since the minor's birth, or the respondent's behavior with respect to other minors, indicates that the respondent is unfit to maintain a relationship of parent and child with the minor; or
 - (4) failure to terminate would be detrimental to the minor.
- (e) In determining whether to terminate under subsection (d)(4), the court shall consider any relevant factor, including the respondent's efforts to obtain or maintain legal and physical custody of the minor, the role of other persons in thwarting the respondent's efforts to assert parental rights, the respondent's ability to care for the minor, the age of the minor, the quality of any previous relationship between the respondent and the minor and between the respondent and any other minor children, the duration and suitability of the minor's present custodial environment, and

the effect of a change of physical custody on the minor.

SECTION 3-505. EFFECT OF ORDER GRANTING PETITION.

An order issued under this Part granting the petition:

- (1) terminates the relationship of parent and child between the respondent and the minor, except for arrearages of child support;
- (2) extinguishes any right the respondent had to withhold consent to a proposed adoption of the minor or to further notice of a proceeding for adoption; and
- (3) is a final order for purposes of appeal.

SECTION 3-506. EFFECT OF ORDER DENYING PETITION.

- (a) If the court denies the petition to terminate a relationship of parent and child, the court shall dismiss the proceeding for adoption and shall determine the legal and physical custody of the minor according to the criteria stated in Section 3-704.
- (b) An order issued under this Part denying a petition to terminate a relationship of parent and child is a **final** order for purposes of appeal.

PART 6. EVALUATION OF ADOPTEE AND PROSPECTIVE ADOPTIVE PARENT

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SECTION 3-601. EVALUATION DURING PROCEEDING FOR ADOPTION,

- (a) After a petition for adoption of a minor is filed, the court shall order that an evaluation be made by an individual qualified under Section 2-202.
- (b) The court shall provide the evaluator with copies of the petition for adoption and of the items filed with the petition.

SECTION 3-602. CONTENT OF EVALUATION.

- (a) An evaluation must be based on a personal interview with the petitioner in the petitioner's residence and observation of the relationship between the minor adoptee and the petitioner.
- (b) An evaluation must be in writing and contain:
 - (1) an account of any change in the petitioner's marital status or family history, physical or mental health, home environment, property, income, or financial obligations since the filing of the **preplacement** evaluation;
 - (2) all reasonably available information concerning the physical, mental, and emotional condition of the minor adoptee which is not included in any report on the minor's health, genetic, and social history filed in the proceeding for adoption;
 - (3) copies of any court order, judgment, decree, or pending legal proceeding affecting the minor adoptee, the petitioner, or any child of the petitioner;
 - (4) a list of the expenses, fees, or other charges incurred, paid, or to be paid, and anything of value exchanged or to be exchanged, in connection with the adoption;
 - (5) any behavior or characteristics of the petitioner which raise a specific concern, as described in Section 2-204(a), about the petitioner or the petitioner's home; and
 - (6) a finding by the evaluator concerning the suitability of the petitioner and the petitioner's home for the minor adoptee and a recommendation concerning the granting of the petition for adoption.

SECTION 3-603. TIME AND FILING OF EVALUATION.

- (a) The evaluator shall complete a written evaluation and file it with the court within 60 days **after** receipt of the court's order for an evaluation, unless the court for good cause allows a later filing.
- (b) If an evaluation produces a specific concern, as described in Section 2-204(a), the evaluation must be filed immediately, and must explain why the concern poses a risk of harm to the physical or psychological well-being of the minor.
- (c) An evaluator shall give the petitioner a copy of an evaluation when filed with the court and for ~~two~~ **3** years shall retain a copy and a list of every source for each item of information in the evaluation.

PART 7. DISPOSITIONAL HEARING; DECREE OF ADOPTION

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SECTION 3-701. TIME FOR HEARING ON PETITION.

The court shall set a date and time for hearing the petition, which must be no sooner than 90 days and no later than 180 days **after** the petition for adoption has been filed, unless the court for good cause sets an earlier or later date and time.

SECTION 3-702. DISCLOSURE OF FEES AND CHARGES.

At least ten days before the hearing:

- (1) the petitioner shall file with the court a signed and verified accounting of any payment or disbursement of money or anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption, or pursuant to Article 7. The accounting must include the date and amount of each payment or disbursement made, the name and address of each recipient, and the purpose of each payment or disbursement;
- (2) the lawyer for the petitioner shall file with the court an affidavit itemizing any fee, compensation, or other thing of value received by, or agreed to be paid to, the lawyer incidental to the placement and adoption of the minor;
- (3) the lawyer for each parent of the minor or for the guardian of the minor shall file with the court an affidavit itemizing any fee, compensation, or other thing of value received by, or agreed to be paid to, the lawyer incidental to the placement and adoption of the minor;
- (4) if an agency placed the minor for adoption, the agency shall file with the court an affidavit itemizing any fee, compensation, or other thing of value received by the agency for, or incidental to, the placement and adoption of the minor; and
- (5) if a guardian placed the minor for adoption, the guardian shall file with the court an affidavit itemizing any fee, compensation, or other thing of value received by the guardian for, or incidental to, the placement and **adoption** of the minor.

SECTION 3-703. GRANTING PETITION FOR ADOPTION.

- (a) A court shall grant a petition for adoption if it determines that the adoption will be in the best interest of the minor, and that:
 - ◻ (1) at least 90 days have elapsed since the filing of the petition for adoption unless the court for good cause shown waives this requirement;
 - ◻ (2) the adoptee has been in the physical custody of the petitioner for at least 90 days unless the court for good cause shown waives this requirement;
 - ◻ (3) notice of the proceeding for adoption has been served or dispensed with as to any person

- entitled to receive notice under Part 4;
- (4) every necessary consent, relinquishment, waiver, disclaimer of paternal interest, or judicial order terminating parental rights, including an order issued under Part 5, has been obtained and filed with the court;
- (5) any evaluation required by this [Act] has been filed with and considered by the court;
- (6) the petitioner is a suitable adoptive parent for the minor;
- (7) if applicable, any requirement of this [Act] governing an interstate or intercountry placement for adoption has been met;
- (8) the Indian Child Welfare Act, 25 §§ 1901 et seq., is not applicable to the proceeding or, if applicable, its requirements have been met;
- (9) an accounting and affidavit required by Section 3-702 has been reviewed by the court, and the court has denied, modified, or ordered reimbursement of any payment or disbursement that is not authorized by Article 7 or is unreasonable or unnecessary when compared with the expenses customarily incurred in connection with an adoption;
- (10) the petitioner has received each report required by Section 2-106; and
- (11) any documents signed pursuant to Section 2-404(e) concerning the release of a former parent's identity to the adoptee after the adoptee attains 18 years of age has been filed with the court.
- (b) Notwithstanding a finding by the court that an activity prohibited by Article 7 or another section of this [Act] has occurred, if the court makes the determinations required by subsection (a), the court shall grant the petition for adoption and report the violation to the appropriate authorities.
- (c) Except as otherwise provided in Article 4, the court shall inform the petitioner and any other individual affected by an existing order for visitation or communication with the minor adoptee that the decree of adoption terminates any existing order for visitation or communication.

SECTION 3-704. DENIAL OF PETITION FOR ADOPTION.

If a court denies a petition for adoption, it shall dismiss the proceeding and issue an appropriate order for the legal and physical custody of the minor. If the reason for the denial is that a consent or relinquishment is revoked or set aside pursuant to Section 2-408 or 2-409, the court shall determine the minor's custody according to the criteria stated in those sections. If the petition for adoption is denied for any other reason, the court shall determine the minor's custody according to the best interest of the minor.

SECTION 3-705. DECREE OF ADOPTION.

- (a) A decree of adoption must state or contain:
 - (1) the original name of the minor adoptee, if the adoption is by a stepparent or relative and, in all other adoptions, the original name or a pseudonym;
 - (2) the name of the petitioner for adoption;
 - (3) whether the petitioner is married or unmarried;
 - (4) whether the petitioner is a stepparent of the adoptee;
 - (5) the name by which the adoptee is to be known and when the name takes effect;
 - (6) information to be incorporated into a new birth certificate to be issued by the State [Registrar of Vital Records], unless the petitioner or an adoptee who has attained 12 years of age requests that a new certificate not be issued;
 - (7) the adoptee's date and place of birth, if known, or in the case of an adoptee born outside the United States, as determined pursuant to subsection (b);
 - (8) the effect of the decree of adoption as stated in Sections 1-104 through 1-106; and
 - (9) that the adoption is in the best interest of the adoptee.
- (b) In determining the date and place of birth of an adoptee born outside the United States, the court shall:
 - (1) enter the date and place of birth as stated in the birth certificate from the country of origin, the United States Department of State's report of birth abroad, or the documents of the United States Immigration and Naturalization Service;
 - (2) if the exact place of birth is unknown, enter the information that is known and designate

- a place of birth according to the best information known with respect to the country of origin;
- (3) if the exact date of birth is unknown, determine a date of birth based upon medical evidence as to the probable age of the adoptee and other evidence the court considers appropriate; and
- (4) if documents described in paragraph (1) are not available, determine the date and place of birth based upon evidence the court **finds** appropriate to consider.
- (c) Unless a petitioner requests otherwise, the decree of adoption may not name a former parent of the adoptee.
- (d) Except for a decree of adoption of a **minor** by a stepparent which is issued pursuant to Article 4, a decree of adoption of a minor must contain a statement that the adoption terminates any order for visitation or communication with the minor that was in effect before the decree is issued.
- (e) A decree that substantially complies with the requirements of this section is not subject to challenge solely because one or more items required by this section are not contained in the decree.

SECTION 3-706. FINALITY OF DECREE.

A decree of adoption is a final order for purposes of appeal when it is issued and becomes **final** for other purposes upon the expiration of the time for filing an appeal, if no appeal is filed, or upon the denial or dismissal of any appeal filed within the requisite time.

SECTION 3-707. CHALLENGES TO DECREE.

- (a) An appeal **from** a decree of adoption or other appealable order issued under this [Act] must be heard expeditiously.
- (b) A decree or order issued under this [Act] may not be vacated or annulled upon application of a person who waived notice, or who was properly served with notice pursuant to this [Act] and failed to respond or appear, file an answer, or file a claim of paternity within the time allowed.
- (c) The validity of an adoption may not be challenged for failure to comply with an agreement for visitation or communication with an adoptee.
- (d) A decree of adoption or other order issued under this [Act] is not subject to a challenge begun more than six months after the decree or order is issued. If a challenge is brought by an individual whose parental relationship to an adoptee is terminated by a decree or order under this [Act], the court shall deny the challenge, unless the court **finds** by clear and convincing evidence that the decree or order is not in the best interest of the adoptee.

PART 8. BIRTH CERTIFICATE

[\[Prev Part\]](#)

SECTION 3-801. REPORT OF ADOPTION.

- (a) Within 30 days after a decree of adoption becomes final, the clerk of the court shall prepare a report of adoption on a form furnished by the [State Registrar of Vital Records] and certify and send the report to the [Registrar]. The report must include:
 - (1) information in the court's record of the proceeding for adoption which is necessary to locate and identify the adoptee's birth certificate or, in the case of an adoptee born outside the United States, evidence the court finds appropriate to consider as to the adoptee's date and place of birth;
 - (2) information in the court's record of the proceeding for adoption which is necessary to issue a new birth certificate for the adoptee and a request that a new **certificate** be issued, unless the court, the adoptive parent or an adoptee who has attained 12 years of age requests that a new certificate not be issued; and

- (3) the file number of the decree of adoption and the date on which the decree becomes final.
- (b) Within 30 days after a decree of adoption is amended or vacated, the clerk of the court shall prepare a report of that action on a form furnished by the [Registrar] and shall certify and send the report to the [Registrar]. The report must include information necessary to identify the original report of adoption, and shall also include information necessary to amend or withdraw any new birth certificate that was issued pursuant to the original report of adoption.

SECTION 3-802. ISSUANCE OF NEW, BIRTH CERTIFICATE.

- (a) Except as otherwise provided in subsection (d), upon receipt of a report of adoption prepared pursuant to Section 3-801, a report of adoption prepared in accordance with the law of another State or country, a certified copy of a decree of adoption together with information necessary to identify the adoptee's original birth certificate and to issue a new certificate, or a report of an amended adoption, the [Registrar] shall:
 - (1) issue a new birth certificate for an adoptee born in this State and furnish a certified copy of the new certificate to the adoptive parent and to an adoptee who has attained 12 years of age;
 - (2) forward a certified copy of a report of adoption for an adoptee born in another State to the [Registrar] of the State of birth;
 - (3) issue a certificate of foreign birth for an adoptee adopted in this State and who was born outside the United States and was not a citizen of the United States at the time of birth, and furnish a certified copy of the certificate to the adoptive parent and to an adoptee who has attained 12 years of age;
 - (4) notify an adoptive parent of the procedure for obtaining a revised birth certificate through the United States Department of State for an adoptee born outside the United States who was a citizen of the United States at the time of birth; or
 - (5) in the case of an amended decree of adoption, issue an amended birth certificate according to the procedure in paragraph (1) or (3) or follow the procedure in paragraph (2) or (4).
- (b) Unless otherwise specified by the court, a new birth certificate issued pursuant to subsection (a)(1) or (3), or an amended certificate issued pursuant to subsection (a)(5) must include the date and place of birth of the adoptee, substitute the name of the adoptive parent for the name of the individual listed as the adoptee's parent on the original birth certificate, and contain any other information prescribed by [the State's vital records law or regulations].
- (c) The [Registrar] shall substitute the new or amended birth certificate for the original birth certificate in the [Registrar's] files. The original certificate and all copies of the certificate in the files of the [Registrar] or any other custodian of vital records in the State must be sealed and are not subject to inspection until 99 years after the adoptee's date of birth, but may be inspected as provided in this [Act].
- (d) If the court, the adoptive parent, or an adoptee who has attained 12 years of age requests that a new or amended birth certificate not be issued, the [Registrar] may not issue a new or amended certificate for an adoptee pursuant to subsection (a), but shall forward a certified copy of the report of adoption or of an amended decree of adoption for an adoptee who was born in another State to the appropriate office in the adoptee's State of birth.
- (e) Upon receipt of a report that an adoption has been vacated, the [Registrar] shall:
 - (1) restore the original birth certificate for an individual born in this State to its place in the files, seal any new or an-tended birth certificate issued pursuant to subsection (a), and now allow inspection of a sealed certificate except upon court order or as otherwise provided in this [Act];
 - (2) forward the report with respect to an individual born in another State to the appropriate office in the State of birth; or
 - (3) notify the individual who is granted legal custody of a former adoptee after an adoption is vacated of the procedure for obtaining an original birth certificate through the United States Department of State for a former adoptee born outside the United States who was a citizen of the United States at the time of birth.
- (f) Upon request by an individual who was listed as a parent on a child's original birth certificate

and who furnishes appropriate proof of the individual's identity, the [Registrar] shall give the individual a noncertified copy of the original birth certificate.

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ARTICLE 4. ADOPTION OF' MINOR STEPCHILD BY STEPPARENT

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SECTION 4-101. STANDING TO ADOPT MINOR STEPCHILD.

- (a) A stepparent has standing under this Article to petition to adopt a minor stepchild who is the child of the stepparent's spouse if:
 - (1) the spouse who has sole legal and physical custody of the child and the child has been in the physical custody of the spouse and the stepparent during the 60 days next preceding the filing of a petition for adoption;
 - (2) the spouse has joint legal custody of the child with the child's other parent and the child has resided primarily with the spouse and the stepparent during the 12 months next preceding the filing of the petition;
 - (3) the spouse is deceased or mentally incompetent, but before dying or being judicially declared mentally incompetent, had legal and physical custody of the child, and the child has resided primarily with the stepparent during the 12 months next preceding the filing of the petition; or
 - (4) an agency has placed the minor stepchild with the stepparent pursuant to [Section 2-103](#).
- (b) For good cause shown, a court may allow an individual who does not meet the requirements of paragraphs (a)(1) through (4), but has the consent of the custodial parent of a minor to file a petition of adoption under this Article. A petition allowed under this subsection shall be treated as a petition for adoption by a stepparent.
- (c) A petition for adoption by a stepparent may be joined with a petition under [Article 3, Part 5](#), to terminate the parental relationship between the minor adoptee and the adoptee's parent who is not the stepparent's spouse.

SECTION 4-102. LEGAL CONSEQUENCES OF ADOPTION OF STEPCHILD.

- (a) Except as otherwise provided in subsections (b) and (c), the legal consequences of an adoption of a stepchild by a stepparent are the same as under [Sections 1 - 103](#) through [1- 106](#).
- (b) An adoption by a stepparent does not affect:
 - (1) the relationship between the adoptee and the adoptee's parent who is the adoptive stepparent's spouse or deceased spouse;
 - (2) an existing court order for visitation or communication with a minor adoptee by an individual related to the adoptee through the parent who is the adoptive stepparent's spouse or deceased spouse;
 - (3) the right of the adoptee or a descendant of the adoptee to inheritance or intestate succession through or from the adoptee's former parent; or
 - (4) A court order or agreement for visitation or communication with a minor adoptee approved by the court pursuant to [Section 4-1 12](#).
- (c) Failure to comply with an agreement or order is not a ground for challenging the validity of the adoption.

SECTION 4-103. CONSENT TO ADOPTION.

Unless a consent is not required under [Section 2-402](#), a petition to adopt a minor stepchild may be granted only if consent to the adoption has been executed by a stepchild who has attained 12 years of age; and

- (1) the minor's parents as described in [Section 2-401\(a\)](#);
- (2) the minor's guardian if expressly authorized by a court to consent to the minor's adoption; or

- (3) an agency that placed the minor for adoption by the stepparent.

SECTION 4-104. CONTENT OF CONSENT BY STEPPARENT'S SPOUSE.

- (a) A consent executed by a parent who is the stepparent's spouse must be signed or **confirmed** in the presence of an individual specified in Section 2-405, or an individual authorized to take acknowledgments.
- (b) A consent under subsection (a) must be in writing, must contain the required statements described in Section 2-406(a)(1) through (3) and (d)(3) through (6), may contain the optional statements described in Section 2-406(f), and must state that:
 - (1) the parent executing the consent has legal and physical custody of the parent's minor child and voluntarily and unequivocally consents to the adoption of the minor by the stepparent;
 - (2) the adoption will not terminate the parental relationship between the parent executing the consent and the minor child; and
 - (3) the parent executing the consent understands and agrees that the adoption will terminate the parental relationship between the minor and the minor's other parent, and will terminate any existing court order for custody, visitation, or communication with the minor, but:
 - (i) the minor and any descendant of the minor will retain the opportunity to inherit from or through the other parent;
 - (ii) a court order for visitation or communication with the minor by an individual related to the minor through the parent executing the consent, or an agreement or order concerning another individual which is approved by the court pursuant to Section 4-1 12 survives the decree of adoption, but failure to comply with the terms of the order or agreement is not a ground for revoking or setting aside the consent or the adoption; and
 - (iii) the other parent remains liable for arrearages of child support, unless released from that obligation by the parent executing the consent and by a governmental entity providing public assistance to the minor.
- (c) The consent may not waive further notice of the proceeding for adoption of the minor by the stepparent.

SECTION 4-105. CONTENT OF CONSENT BY MINOR'S OTHER PARENT.

- (a) A consent executed by a minor's parent who is not the stepparent's spouse must be signed or confirmed in the presence of an individual specified in Section 2-405.
- (b) A consent under subsection (a) must be in writing, must contain the required statements described in Section 2-406(a)(1) through (3) and (d)(3) through (6), may contain the optional statements described in Section 2-406(f), and must state that:
 - (1) the parent executing the consent voluntarily and unequivocally consents to the adoption of the minor by the stepparent and the transfer to the stepparent's spouse and the adoptive stepparent of any right the parent executing the consent has to legal or physical custody of the minor;
 - (2) the parent executing the consent understands and agrees that the adoption will terminate his or her parental relationship to the minor and will terminate any existing court order for custody, visitation, or communication with the minor, but:
 - (i) the minor and any descendent of the minor will retain the opportunity to inherit from or through the parent executing the consent;
 - (ii) a court order for visitation or communication with the minor by an individual related to the minor through the minor's other parent, or an agreement or order concerning another individual which is approved by the court pursuant to Section 4-1 12 survives the decree of adoption, but failure to comply with the terms of the order or agreement is not a ground for revoking or setting aside the consent or the adoption; and
 - (iii) the parent executing the consent remains liable for arrearages of child support, unless released from that obligation by the other parent and any guardian ad litem of the minor and by a governmental entity providing public assistance to the minor; and

- (3) the parent executing the consent has provided the adoptive stepparent with the information required by Section 2-106.
- (c) A consent under subsection (a) may waive notice of the proceeding for adoption of the minor by the stepparent, unless the adoption is contested, appealed, or denied.

SECTION 4-106. CONTENT OF CONSENT BY OTHER PERSONS.

- (a) A consent executed by the guardian of a minor stepchild or by an agency must be in writing and signed or confirmed in the presence of the court, or in a manner the court directs, and:
 - (1) must state the circumstances under which the guardian or agency obtained the authority to consent to the adoption of the minor by a stepparent;
 - (2) must contain the statements required by Sections 4-104 and 4-105, except for any that can be made only by a parent of the minor; and
 - (3) may waive notice of the proceeding for adoption, unless the adoption is contested, appealed, or denied.
- (b) A consent executed by a minor stepchild in a proceeding for adoption by a stepparent must be signed or confirmed in the presence of the court or in a manner the court directs.

SECTION 4-107. PETITION TO ADOPT.

- (a) A petition by a stepparent to adopt a minor stepchild must be signed and verified by the petitioner and contain the following information or state why any of the information is not contained in the petition:
 - (1) the information required by Section 3-304(a) (1), (3), (5), and (8) through (12) and (b);
 - (2) the current marital status of the petitioner, including the date and place of marriage, the name and date and place of birth of the petitioner's spouse, and, if the spouse is deceased, the date, place, and cause of death, and, if the spouse is incompetent, the date on which a court declared the spouse incompetent;
 - (3) the length of time the minor has been residing with the petitioner and the petitioner's spouse and, if the minor is not in the physical custody of the petitioner and the petitioner's spouse, the reason why they do not have custody and when they intend to obtain custody; and
 - (4) the length of time the petitioner's spouse or the petitioner has had legal custody of the minor and the circumstances under which legal custody was obtained.

SECTION 4-108. REQUIRED DOCUMENTS.

- (a) After a petition to adopt a minor stepchild is filed, the following must be filed in the proceeding:
 - (1) any item required by Section 3-305(a) which is relevant to an adoption by a stepparent; and
 - (2) a copy of any agreement to waive arrearages of child support
- (b) If any of the items required by subsection (a) is not available, the person responsible for furnishing the item shall file an affidavit explaining its absence.

SECTION 4-109. NOTICE OF PENDENCY OF PROCEEDING.

- (a) Within 30 days after a petition to adopt a minor stepchild is filed, the petitioner shall serve notice of the proceeding upon:
 - (1) the petitioner's spouse;
 - (2) any other person whose consent to the adoption is required under this Article;
 - (3) any person described in Section 3-401(a)(3), (4), and (6) and (b); and
 - (4) the parents of the minor's parent whose parental relationship will be terminated by the adoption unless the identity or the whereabouts of those parents are unknown.

SECTION 4-110. EVALUATION OF STEPPARENT.

- (a) After a petition for adoption of a minor stepchild is filed, the court may order that an evaluation be made by an individual qualified under Section 2-202 to assist the court in determining whether the proposed adoption is in the best interest of the minor.
- (b) The court shall provide an evaluator with copies of the petition for adoption and of the items filed with the petition.
- (c) Unless otherwise directed by the court, an evaluator shall base the evaluation on a personal interview with the petitioner and the petitioner's spouse in the petitioner's residence, observation of the relationship between the minor and the petitioner, any personal interview of others who know the petitioner, and any information received pursuant to subsection (d).
- (d) An evaluation under this section must be in writing and contain the following:
 - (1) the information required by Section 2-203(d) and (e);
 - (2) the information required by Section 3-602(b)(2) through (5); and
 - (3) the finding required by Section 3-602(b)(6).
- (e) An evaluator shall complete an evaluation and file it with the court within 60 days after being asked for the evaluation under this section, unless the court allows a later filing.
- (f) Section 3-603(b) and (c) apply to an evaluation under this section.

SECTION 4-111. DISPOSITIONAL HEARING: DECREE OF ADOPTION.

Sections 3-701 through 3-707 apply to a proceeding for adoption of a minor stepchild by a stepparent, but the court may waive the requirements of Section 3-702.

SECTION 4-112. VISITATION AGREEMENT AND ORDER.

- (a) Upon the request of the petitioner in a proceeding for adoption of a minor stepchild, the court shall review a written agreement that permits another individual to visit or communicate with the minor after the decree of adoption becomes final, which must be signed by the individual, the petitioner, the petitioner's spouse, the minor if 12 years of age or older, and, if an agency placed the minor for adoption, an authorized employee of the agency.
- (b) The court may enter an order approving the agreement only upon determining that the agreement is in the best interest of the minor adoptee. In making this determination, the court shall consider:
 - (1) the preference of the minor, if the minor is mature enough to express a preference;
 - (2) any special needs of the minor and how they would be affected by performance of the agreement;
 - (3) the length and quality of any existing relationship between the minor and the individual who would be entitled to visit or communicate, and the likely effect on the minor of allowing this relationship to continue;
 - (4) the specific terms of the agreement and the likelihood that the parties to the agreement will cooperate in performing its terms;
 - (5) the recommendation of the minor's guardian ad litem, lawyer, social worker, or other counselor; and
 - (6) any other factor relevant to the best interest of the minor.
- (c) In addition to any agreement approved pursuant to subsections (a) and (b), the court may approve the continuation of an existing order or issue a new order permitting the minor adoptee's former parent, grandparent, or sibling to visit or communicate with the minor if:
 - (1) the grandparent is the parent of a deceased parent of the minor or the parent of the adoptee's parent whose parental relationship to the minor is terminated by the decree of adoption;
 - (2) the former parent, grandparent, or sibling requests that an existing order be permitted to survive the decree of adoption or that a new order be issued; and
 - (3) the court determines that the requested visitation or communication is in the best interest of the minor.
- (d) In making a determination under subsection (c)(3), the court shall consider the factors listed in subsection (b) and any objections to the requested order by the adoptive stepparent and the stepparent's spouse.

- (e) An order issued under this section may be enforced in a civil action only if the court **finds that** enforcement is in the best interest of a minor adoptee.
- (f) An order issued under this section may not be modified unless the court finds that modification is in the best interest of a minor adoptee and:
 - (1) the individuals subject to the order request the modification; or
 - (2) exceptional circumstances arising since the order was issued justify the modification.
- (g) Failure to comply with the terms of an order approved under this section or with any other agreement for visitation or communication is not a ground for revoking, setting aside, or otherwise challenging the validity of a consent, relinquishment, and adoption pertaining to a minor stepchild, and the validity of the consent, relinquishment, and adoption is not affected by any later action to enforce, modify, or set aside the order or agreement.

SECTION 4-113. OTHER PROVISIONS APPLICABLE TO ADOPTION OF STEPCHILD.

Except as otherwise provided by this Article, Article 3 applies to an adoption of a minor stepchild by a stepparent.

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ARTICLE 5. ADOPTION OF ADULTS AND EMANCIPATED MINORS

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SECTION 5-101. WHO MAY ADOPT ADULT OR EMANCIPATED MINOR.

- . (a) An adult may adopt another adult or an emancipated minor pursuant to this Article, but:
 - o (1) an adult may not adopt his or her spouse; and
 - o (2) an incompetent individual of any age may be adopted only pursuant to Articles 2, 3, and 4.
- . (b) An individual who has adopted an adult or emancipated minor may not adopt another adult or emancipated minor within one year after the adoption unless the prospective adoptee is a sibling of the existing adoptee.

SECTION 5-102. LEGAL CONSEQUENCES OF ADOPTION.

The legal consequences of an adoption of an adult or emancipated minor are the same as under Sections 1-103 through 1-106, but the legal consequences of adoption of an adult stepchild by an adult stepparent are the same as under Section 4-102.

SECTION 5-103. CONSENT TO ADOPTION.

- (a) Consent to the adoption of an adult or emancipated minor is required only of:
 - o (1) the adoptee;
 - o (2) the prospective adoptive parent; and
 - o (3) the spouse of the prospective adoptive parent, unless they are legally separated, or the court finds that the spouse is not capable of giving consent or is withholding consent contrary to the best interest of the adoptee and the prospective adoptive parent.
- (b) The consent of the adoptee and the prospective adoptive parent must:
 - o (1) be in writing and be signed or confirmed by each of them in the presence of the court or an individual authorized to take acknowledgments;
 - o (2) state that they agree to assume toward each other the legal relationship of parent and child and to have all of the rights and be subject to all of the duties of that relationship; and
 - o (3) state they understand the consequences the adoption may have for any right of inheritance, property, or support each has.
- (c) The consent of the spouse of the prospective adoptive parent:
 - o (1) must be in writing and be signed or confirmed in the presence of the court or an individual authorized to take acknowledgments;
 - o (2) must state that the spouse:
 - (i) consents to the proposed adoption; and
 - (ii) understands the consequences the adoption may have for any right of inheritance, property, or support the spouse has; and
 - o (3) may waive notice of the adoption proceeding.

SECTION 5-104. JURISDICTION AND VENUE.

- (a) The court has jurisdiction over a proceeding for the adoption of an adult or emancipated minor under this Article if a petitioner lived in this State for at least 90 days immediately preceding the filing of a petition for adoption.
- (b) A petition for adoption may be filed in the court in the [county] in which a petitioner lives.

SECTION 5-105. PETITION FOR ADOPTION.

- (a) A prospective adoptive parent and an adoptee under this Article must jointly file a petition for adoption.
- (b) The petition must be signed and verified by each petitioner and state:
 - (1) the full name, age, and place and duration of residence of each petitioner;
 - (2) the current marital status of each petitioner, including the date and place of marriage, if married;
 - (3) the full name by which the adoptee is to be known if the petition is granted;
 - (4) the duration and nature of the relationship between the prospective adoptive parent and the adoptee;
 - (5) that the prospective adoptive parent and the adoptee desire to assume the **legal** relationship of parent and child and to have all of the rights and be subject to all of the duties of &at relationship;
 - (6) that the adoptee understands that a consequence of the adoption will be to terminate the adoptee's relationship as the child of an existing parent, but if the adoptive parent is the adoptee's stepparent, the adoption will not affect the adoptee's relationship with a parent who is the stepparent's spouse, but will terminate **the adoptee's** relationship to the adoptee's other parent, except for the right to inherit from or through that parent;
 - (7) the name and last known address of any other individual whose consent is required;
 - (8) the name, age, and last known address of any child of the prospective adoptive parent including a child previously adopted by the prospective adoptive parent or his or her spouse, and the date and place of the adoption; and
 - (9) the name, age, and last known address of any living parent or child of the adoptee.
- (b) The petitioners shall attach to the petition:
 - (1) a certified copy of the birth certificate or other evidence of the date and place of birth of the adoptee and the prospective adoptive parent, if available; and
 - (2) any required consent that has been executed.

SECTION 5-106. NOTICE AND TIME OF HEARING.

- (a) Within 30 days **after** a petition for adoption is filed, the petitioners shall serve notice of the hearing the petition upon any individual whose consent to the adoption is required under Section S-103, and who has not waived notice, by sending a copy of the petition and notice of hearing to the individual at the address stated in the petition, or according to the manner of service provided in Section 3-403.
- (b) The court shall set a date and time for hearing the petition, which must be at least 30 days **after** the notice is served.

SECTION 5-107. DISPOSITIONAL HEARING.

- (a) Both petitioners shall appear in person at the hearing, unless an appearance is excused for good cause shown. In that event an appearance may be made for either or both of them by a lawyer authorized in writing to make the appearance, or a hearing **may** be conducted by telephone or other electronic medium.
- (b) The court shall examine the petitioners, or the lawyer for a petitioner not present in person, and shall g-rant the petition for adoption if it determines that:
 - (1) at least 30 days have elapsed since the service of notice of hearing the petition for adoption;
 - (2) notice has been served, or dispensed with, as to any person whose consent is required under Section 5- 103;
 - (3) every necessary consent, waiver, document, or judicial order has been obtained and **filed** with the court;
 - (4) the adoption is for the purpose of creating the relationship of parent and child between the petitioners and the petitioners understand the consequences of the relationship; and
 - (5) there has been substantial compliance with this [Act].

SECTION 5-108. DECREE OF ADOPTION.

- (a) A decree of adoption issued under this Article must substantially conform to the relevant requirements of Section 3-705 and appeals from a decree, or challenges to it, are governed by Sections 3-706 and 3-707
- (b) The court shall send-copy of the decree to each individual named in the petition at the address stated in the petition.
- (c) Within 30 days after a decree of adoption becomes final, the clerk of the court shall prepare a report of the adoption for the [State Registrar of Vital Records], and, if the petitioners have requested it, the report shall instruct the [Registrar] to issue a new birth certificate to the adoptee, as provided in Article 3, Part 8.

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ARTICLE'6. RECORDS OF ADOPTION PROCEEDING: RETENTION, CONFIDENTIALITY, AND ACCESS

[\[ToC\]](#) [\[Prev Article\]](#) [\[Next Article\]](#)

SECTION 6-101. RECORDS DEFINED.

Unless the context requires otherwise, for purposes of this Article, "records" includes all documents, exhibits, and data pertaining to an adoption.

SECTION 6-102. RECORDS CONFIDENTIAL, COURT RECORDS SEALED.

- (a) All records, whether on file with the court, or in the possession of an agency, the [Registrar of Vital Records or Statistics], a lawyer, or other provider of professional services in connection with an adoption, are confidential and may not be inspected except as provided in this [Act].
- (b) During a proceeding for adoption, records are not open to inspection except as directed by the court.
- (c) Within 30 days **after** a decree of adoption becomes final, the clerk of the court shall send to the [Registrar], in addition to the report of adoption required by Section 3-801, a certified copy of any document signed pursuant to Section 2-404(e) and filed in the proceeding for adoption. ¹⁸
- (d) All records on file with the court must be retained permanently and sealed for ~~99~~ ¹⁸ years after the date of the adoptee's birth. Sealed records and indices of the records are not open to inspection by any person except as provided in this [Act].
- (e) Any additional information about an adoptee, the ~~adoptive's~~ ¹⁸ former parents and the adoptee's genetic history that is submitted to the court within the ~~99~~ ¹⁸-year period, must be added to the sealed records of the court. Any additional information that is submitted to an agency, lawyer, or other professional provider of services within the ~~99~~ ¹⁸-year period must be kept confidential.

SECTION 6-103. RELEASE OF NONIDENTIFYING INFORMATION.

- (a) An adoptive parent or guardian of an adoptee, ¹⁸ ~~an adoptee who attained 18 years of age, an emancipated adoptee, a deceased adoptee's direct descendant who has attained 18 year of age, or the parent or guardian of a direct descendant who has not attained 18 years of age~~ may request the court that granted the adoption or the agency that placed the adoptee for adoption, to furnish the nonidentifying information about the adoptee, the adoptee's former parents, and the adoptee's genetic history that has been retained by the court or agency, including the information required by Section 2- 106.
- (b) The court or agency shall furnish the individual who makes the request with a detailed summary of any relevant report or information that is included in the sealed records of the court or the confidential records of the agency. The summary must exclude identifying information concerning an individual who has not filed a waiver of confidentiality with the court or agency. The Department or the court shall prescribe forms and a procedure for summarizing any report or information released under this section.
- (c) An individual who is denied access to nonidentifying information which the individual is entitled under this Article or Section 2- 106 may petition the court for relief
- (d) If a court receives a certified statement from a physician explaining in detail how a health condition may seriously affect the health of the adoptee or a direct descendant of the adoptee, the court shall make a diligent effort to notify an adoptee who has attained 18 year of age, an adoptive parent of an adoptee who has not attained 18 years of age, or a direct descendant of a deceased adoptee that the nonidentifying information is available and may be requested from the court.
- (e) If a court receives a certified statement from a physician explaining in detail why a serious

health condition of the adoptee or a direct descendant of the adoptee should be communicated to the adoptee's genetic parent or sibling to enable them to make an informed reproductive decision, the court shall make a diligent effort to notify those individuals that the **nonidentifying** information is available and may be requested from the court.

- (f) If the [Registrar] receives a request or any additional information from an individual pursuant to this section, the [Registrar] shall give the individual the name and address of the court or agency having the records, and if the court or agency is in another State, shall assist the individual in locating the court or agency. The [Registrar] shall prescribe a reasonable procedure for verifying the identity, age, or other relevant characteristics of an individual who requests or furnishes information under this section.

SECTION 6-104. DISCLOSURE OF IDENTIFYING INFORMATION.

- (a) Except as otherwise provided in this Article, identifying information about an adoptee's former parent, an adoptee, or an adoptive parent which is contained in records, including original birth certificates, required by this [Act] to be confidential or sealed, may not be disclosed to any person.
- (b) Identifying information about an adoptee's former parent must be disclosed by the [Registrar] to an adoptee who has attained 18 years of age, an adoptive parent of an **adopee** who has not attained 18 years of age, a deceased adoptee's direct descendant who has attained 18 years of age, or the parent or guardian of a direct descendant who has not attained 18 years of age if one of these individuals requests the information and:
 - (1) the adoptee's former parent or, if the former parent is deceased or has been judicially declared incompetent, an adult descendant of the former parent ~~authorizes the disclosure of his or her name, date of birth, or last known address, or other identifying information, either in a document signed pursuant to Section 2-404(e) and filed in the proceeding for adoption or in another signed document filed with the court, an agency, or the [Registrar]; or~~
 - (2) the adoptee's former parent authorizes the disclosure of the requested information only if the adoptee, adoptive parent, or direct descendant agrees to release similar identifying information about the adoptee, adoptive parent, or direct descendant and this individual authorizes the disclosure of the information in a signed document kept by the court, an agency, or the [Registrar].
- (c) Identifying information about an adoptee or a deceased adoptee's direct descendant must be disclosed by the [Registrar] to an adoptee's former parent if that individual requests the information and:
 - (1) ~~an adoptee who has attained 18 years of age, an adoptive parent of an adoptee who has not attained 18 years of age, a deceased adoptee's direct descendant who has attained 18 years of age, or the parent or guardian of a direct descendant who has not attained 18 years of age authorizes the disclosure of the requested information in the manner described in subsection (b)(2); or~~
 - (2) one of those individuals authorizes the disclosure of the requested information only if the adoptee's former parent agrees to release similar information about himself or herself, and the former parent authorizes the disclosure of the information in the manner described in subsection (b)(1).
- (d) Identifying information about an adult sibling of an adoptee who has attained 18 years of age must be disclosed by the [Registrar] to an adoptee if:
 - (1) the sibling is also an adoptee; and
 - (2) ~~both the sibling and the adoptee have consented to disclosure of the information.~~
- (e) Subsection (d) does not permit disclosure of a former parent's identity ~~unless that parent has authorized disclosure under this [Act].~~ ¹⁴ signed a denial statement pursuant to Section 2-404(e)(5)

SECTION 6-105. ACTION FOR DISCLOSURE OF INFORMATION.

- (a) To obtain information not otherwise available under Section 6-103 or 6-104, an adoptee who has attained 18 years of age, an adoptee who has not attained 18 years of age and has the permission of an adoptive parent, an adoptive parent of an adoptee who has not attained 18 years of age, a deceased adoptee's direct descendant who has attained 18 years of age, the parent or guardian of a direct descendant who has not attained 18 years of age, or an adoptee's former parent

- send written request to Registrar
may file a petition in the court to obtain information about another individual described in this section which is contained in records, including original birth certificates, required by this [Act] to be confidential or sealed.
- (b) In determining whether to grant a ^{request} petition under this section, the court shall review the sealed records of the relevant proceeding for adoption and shall make specific findings concerning:
 - (1) the reason the information is sought; ~~if by adoptive parents of minor adoptee.~~
 - (2) whether the individual about whom information is sought has filed a signed document described in Section 2-404(e) or 6-104 requesting that his or her identity not be disclosed, ~~or has not filed any document;~~
 - ~~(3) whether the individual about~~ -whom information is sought is alive;
 - ~~(4) whether it is possible to satisfy the petitioner's request~~ -without disclosing the identity of another individual;
 - (5) the likely effect of disclosure on the adoptee, the adoptive parents, the adoptee's former parents, and other members of the adoptee's original and adoptive families; and
 - ~~(6) the age, maturity, and expressed needs of the adoptee.~~
 - (c) The court may order the disclosure of the requested information only upon a determination that good cause exists for the release based on the findings required by subsection (b) and a conclusion that:
 - (1) there is a compelling reason for disclosure of the information; and
 - (2) the benefit to the petitioner will be greater than the harm to any other individual of disclosing the information.

~~(3) all requirements under Section~~

SECTION 6-106. STATEWIDE REGISTRY.

The [Registrar] shall:

- (1) establish a ^{nationwide} ~~statewide~~ confidential registry for receiving, filing, and retaining documents requesting, authorizing, or not authorizing, the release of identifying information;
- (2) prescribe and distribute forms or documents on which an individual may request, authorize, or refuse to authorize the release of identifying information;
- (3) devise a procedure for releasing identifying information in the [Registrar's] possession upon receipt of an appropriate request and authorization;
- ~~(4) cooperate with registries in other States to facilitate the matching of documents filed pursuant to this Article by individuals in different States; and~~
- (5) announce and publicize to the general public the existence of the registry and the procedure for the consensual release of identifying information.

Unnecessary if one registry

SECTION 6-107. RELEASE OF ORIGINAL BIRTH CERTIFICATE.

- (a) In addition to any copy of an adoptee's original birth certificate authorized for release by a court order issued pursuant to Section 6-105, the [Registrar] shall furnish a copy of the original birth certificate upon the request of an adoptee who has attained 18 years of age, the direct descendant of a deceased adoptee, or an adoptive parent of an adoptee who has not attained 18 years of age, ~~if the individual who makes the request~~ furnishes a consent to disclosure signed by ~~each individual who was named as~~ a parent on the adoptee's original birth certificate.
- (b) When ~~29~~ years have elapsed after the date of birth of an adoptee whose original birth certificate is sealed under this [Act], the [Registrar] shall unseal the original certificate and file it with any new or amended certificate that has been issued. The unsealed certificates become public information in accordance with any statute or regulation applicable to the retention and disclosure of records by the [Registrar].

if no signed denial statement on file

if not previously unsealed pursuant to Section 4-6-104 and 6-105.

SECTION 6-108. CERTIFICATE OF ADOPTION.

Upon the request of an adoptive parent or an adoptee who has attained 18 years of age, the clerk of the court that entered a decree of adoption shall issue a certificate of adoption which states the date and place of adoption, the date of birth of the adoptee, the name of each adoptive parent and the name of the

adoptee as provided in the decree.

SECTION 6-109. DISCLOSURE AUTHORIZED IN COURSE OF EMPLOYMENT.

This Article does not preclude an employee or agent of a court, agency, or the [Registrar] from:

- . (1) inspecting permanent, confidential, or sealed records for the purpose of discharging any obligation under this [Act];
- (2) disclosing the name of the court where a proceeding for adoption occurred, or the name of an agency that placed an adoptee, to an individual described in Sections 6- 103 through 6- 105, who can verify his or her identity; or
- . (3) disclosing nonidentifying information contained in confidential or sealed records in accordance with any other applicable state or federal law.

SECTION 6-110. FEE FOR SERVICES.

A court, an agency, or the [Registrar] may charge a reasonable fee for services, including copying services, it performs pursuant to this Article.

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ARTICLE 7. PROHIBITED AND PERMISSIBLE ACTIVITIES IN CONNECTION WITH ADOPTION

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SECTION 7-101. PROHIBITED ACTIVITIES IN PLACEMENT.

- (a) Except as provided in Article 2, Part 1:
 - ◻ (1) a person, other than a parent, guardian, or agency, as specified in Sections 2-101 through 2-103, may not place a minor for adoption or advertise in any public medium that the person knows of a minor who is available for adoption;
 - ◻ (2) a person, other than an agency or an individual with a favorable preplacement evaluation, as required by Sections 2-201 through 2-207, may not advertise in any public medium that the person is willing to accept a minor for adoption;
 - ◻ (3) an individual, other than a relative or stepparent of a minor, who does not have a favorable preplacement evaluation or a court-ordered waiver of the evaluation, or who has an unfavorable evaluation, may not obtain legal or physical custody of a minor for purposes of adoption; and
 - ◻ (4) a person may not place or assist in placing a minor for adoption with an individual, other than a relative or stepparent, unless the person knows that the individual has a favorable preplacement evaluation or a waiver pursuant to Section 2-201.
- (b) A person who violates subsection (a) is liable for a [civil penalty] not to exceed [\$5,000] for the first violation, and not to exceed [\$10,000] for each succeeding violation in an action brought by the [State.....]. The court may enjoin from further violations any person who violates subsection (a) and shall refer the person to an appropriate licensing authority for disciplinary proceedings.

SECTION 7-102. UNLAWFUL PAYMENTS RELATED TO ADOPTION.

- (a) Except as provided in Section 7-103 and 7-104, a person may not pay or give or offer to pay or give to any other person, or request, receive, or accept any money or anything of value, directly or indirectly, for:
 - ◻ (1) the placement of a minor for adoption;
 - ◻ (2) the consent of a parent, a guardian, or an agency to the adoption of a minor; or
 - ◻ (3) the relinquishment of a minor to an agency for the purpose of adoption.
- (b) The following persons are liable for a [civil penalty] not to exceed [\$5,000] for the first violation, and not to exceed [\$10,000] for each succeeding violation in an action brought by the [State.....]:
 - ◻ (1) a person who knowingly violates subsection (a);
 - ◻ (2) a person who knowingly makes a false report to the court about a payment prohibited by this section or authorized by Section 7-103 or 7-104; and
 - ◻ (3) a parent or guardian who knowingly receives or accepts a payment authorized by Section 7-103 or 7-104 with the intent not to consent to an adoption or to relinquish a minor for adoption.
- (c) The court may enjoin from further violations any person described in subsection (b) and shall refer the person to an appropriate licensing authority for disciplinary proceedings.

SECTION 7-103. LAWFUL PAYMENTS RELATED TO ADOPTION.

- (a) Subject to the requirements of Sections 3-702 and 3-703 for an accounting and judicial approval of fees and charges related to an adoption, an adoptive parent, or a person acting on

behalf of an adoptive parent, may pay for:

- (1) the services of an agency in connection with an adoption;
 - (2) advertising and similar expenses incurred in locating a minor for adoption;
 - (3) medical, hospital, nursing, pharmaceutical, travel, or other similar expenses incurred by a mother or her minor child in connection with the birth or any **illness of** the minor,
 - (4) counseling services for a parent or a minor for a reasonable time before and **after** the minor's placement for adoption;
 - (5) living expenses of a mother for a reasonable time before the birth of her child and for no more than six weeks **after** the birth;
 - (6) expenses incurred in ascertaining the information required by Section 2-106;
 - (7) legal services, court costs, and travel or other administrative expenses connected with an adoption, including any legal services performed for a parent who consents to the adoption of a minor or relinquishes the minor to an agency;
 - (8) expenses incurred in obtaining a preplacement evaluation and an evaluation during the proceeding for adoption; and
 - (9) any other service or expense the court finds is reasonable and necessary.
- **(b)** A parent or a guardian, a person acting on the parent's or guardian's behalf, or a provider of a service listed in subsection (a), may receive or accept a payment authorized by subsection (a). The payment may not be made contingent on the placement of a minor for adoption, relinquishment of the minor, or consent to the adoption. If the adoption is not completed, a person who is authorized to make a specific payment by subsection (a) is not liable for that payment unless the person has agreed in a signed writing with a provider of a service to make the payment regardless of the outcome of the proceeding for adoption.

SECTION 7-104. CHARGES BY AGENCY.

Subject to the requirements of Sections 3-702 and 3-703 for an accounting and judicial approval of fees and charges related to an adoption, an agency may charge or accept a fee or other compensation from a prospective adoptive parent for:

- (1) medical, hospital, nursing, pharmaceutical, travel, or other similar expenses incurred by a mother or her minor child in connection with the birth or any illness **of** the minor;
- (2) a percentage of the annual cost the agency incurs in locating and providing counseling services for minor adoptees, parents, and prospective parents;
- (3) the living expenses of a mother for a reasonable time before the birth of a child and for no more than six weeks **after** the birth;
- (4) expenses incurred in ascertaining the information required by Section 2-106;
- (5) legal services, court costs, and travel or other administrative expenses connected with an adoption, including the legal services performed for a parent who relinquishes a minor child to the agency;
- **(6) preparation** of a preplacement evaluation and an evaluation during the proceeding for adoption; **and**
- (7) any other service or expense the court finds is reasonable and necessary.

SECTION 7-105. FAILURE TO DISCLOSE INFORMATION.

- (a) A person, other than a parent, who has a duty to furnish the nonidentifying information required by Section 2-106, or authorized for release under Article 6, and who intentionally **refuses** to provide the information is subject to a [civil penalty] not to exceed **[\$5,000]** for the first violation, and not to exceed **[\$10,000]** for each succeeding violation in an action brought by the [State.....]. The court may enjoin the person **from** further violations of the duty to furnish nonidentifying information.
- **(b)** An employee or agent of an agency, the court, or the State [Registrar of Vital Records] who intentionally destroys any information or report compiled pursuant to Section 2-106, or authorized for release under Article 6, is guilty of a [misdemeanor] punishable by a fine of not more than **[\$]** or imprisonment for not more than [], or both.
- (c) In addition to the penalties provided in subsections (a) and **(b)**, an adoptive parent, an adoptee

or any person who is the subject of any information required by Section 2-106, or authorized for release under Article 6, may maintain an action for damages or equitable relief against a person, other than a parent who placed a minor for adoption, who fails to perform the duties required by Section 2-106 or Article 6.

- (d) A prospective adoptive parent who knowingly fails to furnish information nor knowingly furnishes false information to an evaluator preparing an evaluation pursuant to Article 2. Part 2 or Article 3. Part 6, with the intent to deceive the evaluator, is guilty of a [misdemeanor] punishable by a **fine** of not more than [\$] or imprisonment for not more than [], or both.
- (e) An evaluator who prepares an evaluation pursuant to Article 2. Part 2 or Article 3. Part 6 and who knowingly omits or misrepresents information about the individual being evaluated with the intent to deceive a person authorized under this [Act] to place a minor for adoption is guilty of a [misdemeanor] punishable by a **fine** of not more than [\$] or imprisonment for not more than [], or both.
- (f) A parent of a minor child who knowingly misidentifies the minor's other parent with an intent to deceive the other parent, an agency, or a prospective adoptive parent is subject to a [civil penalty] not to exceed [\$5,000] in an action brought by the [State].

SECTION 7-106. UNAUTHORIZED DISCLOSURE OF INFORMATION.

- (a) Except as authorized in this [Act], a person who furnishes or retains a report or records pursuant to this [Act] may not disclose any identifying or nonidentifying information contained in the report or records.
- (b) A person who knowingly gives or offers to give or who accepts or agrees to accept anything of value for an unauthorized disclosure of identifying information made confidential by this [Act] is guilty of a [misdemeanor] punishable by a fine of not more than [\$] or imprisonment for not more than [], or both, for the first violation and of a [felony] punishable by a fine of not more than [\$] or imprisonment for not more than [], or both, for each succeeding violation.
- (c) A person who knowingly gives or offers to give or who accepts or agrees to accept anything of value for an unauthorized disclosure of **nonidentifying** information made confidential by this [Act] is subject to a [civil penalty] not to exceed [\$5,000] for the first violation, and not to exceed [\$10,000] for each succeeding violation in an action brought by the [State.....].
- (d) A person who makes a disclosure, that the person knows is unauthorized, of identifying or nonidentifying information from a report or record maintained pursuant to this [Act] is subject to a [civil penalty] not to exceed [\$2,500] for the first violation, and not to exceed [\$5,000] for each succeeding violation in an action brought by the [State].
- (e) The court may enjoin from further violations any person who makes or obtains an unauthorized disclosure and shall refer the person to an appropriate licensing authority for disciplinary proceedings.
- (f) In addition to the penalties provided in subsections (b) through (e), an individual who is the subject of any of the information contained in a report or records made confidential by this [Act] may maintain an action for damages or equitable relief against any person who makes-or obtains, or is likely to make or obtain, an unauthorized disclosure of the information.
- (g) Identifying information contained in a report or records required by this [Act] to be kept confidential or sealed may not be disclosed under any other law of this State.

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ARTICLE 8. MISCELLANEOUS PROVISIONS

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SECTION 8-101. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among the states enacting it.

SECTION 8-102. SHORT TITLE.

This [Act] may be cited as the Uniform Adoption Act (1994).

SECTION 8-103. SEVERABILITY CLAUSE.

If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

SECTION 8-104. EFFECTIVE DATE.

This [Act] takes effect on

SECTION 8-105. REPEALS.

The following acts and parts of acts are repealed:

- (1)
- (2)
- (3)

SECTION 8-106. TRANSITIONAL PROVISIONS.

A proceeding for adoption commenced before the effective date of this [Act] may be completed under the law in effect at the time the proceeding was commenced.

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