



**TERMINATION
OF PARENTAL RIGHTS
AND
ADOPTION PROCEDURES**

**The Probate Courts of Connecticut
Probate Court Administrator
186 Newington Road
West Hartford, CT 06110**

Compliments of your probate court:

INTRODUCTION

Among the laws within the jurisdiction of Connecticut Probate Courts are those dealing with adoptions and the termination of parental rights.

This brochure was designed to explain the basic aspects of a complex body of laws with which most people are not familiar. It is not a complete review of the subject, but a guide to help those with commonly asked questions.

For answers to specific procedural questions, your local Probate Court would be happy to assist you. For problems related to substantive matters of a specific nature, competent professional advice should be sought.

Notes: 1) As used in this booklet, words referring to the male gender may be applied to females, and words referring to the female gender may be applied to males. 2) A number of forms pertaining to the termination of parental rights and adoption procedures are available online at the Judicial Branch's Web site, www.jud.ct.gov. (Click on "Forms" under "Quick Links.") Forms are also available at the probate court.

What is the law in general?

In order for a child to be adopted, he must be "free" for adoption and "given in adoption" by a legally authorized individual or agency. Unlike some other states, Connecticut does not allow the *direct* placement of children by private, unregulated adoption agencies or non-relatives. Only certain approved agencies and close relatives, under careful regulation, may offer a child for adoption.

When is a child free for adoption?

A minor child (under 18) is free for possible adoption if: (1) there are no living parents or, (2) the rights of both parents have been terminated by a court of competent jurisdiction.

A third option, stepparent adoption, is the most commonly used, and it is generally less complicated than the other types of adoption. There are three parties who may offer a child in adoption to the person to whom they are currently married. One is a surviving parent. Under the proper circumstances, two other parties may offer a child in a stepparent adoption: the mother of a child born out of wedlock **or** the sole guardian of a child. To give an example, suppose that John and Mary are husband and wife, as well as the parents of Bobby, a minor child. John dies, and Mary remarries a man named George. Subject to the approval of the Probate Court, Mary is then free to offer Bobby in adoption to her new husband, George, without having her parental rights terminated. Other types of adoptions are described later in this pamphlet.

There are special procedures involved for children born outside the United States. Please consult a licensed child-placing agency for further information.

What effect does divorce have on an adoption procedure?

A child of parents who are divorced is *not* automatically free for adoption, even when the Superior Court awards exclusive custody to one parent in a divorce action and that parent subsequently remarries. The Probate Court must first properly terminate the rights of the other divorced parent *before* the child can be given in adoption to the new stepparent.

TERMINATION OF PARENTAL RIGHTS

What is meant by "termination of parental rights"?

That term means the complete severance by Probate Court order of the legal relationship, with all its rights and responsibilities, between the child and his parent or parents, so that the child is free for adoption.

Once terminated, those parental rights can never be restored, unless, under extremely unusual circumstances, the natural parent should subsequently adopt his or her own child.

Who can seek the termination of parental rights?

Any of the following parties may petition in the Probate Court district within which the child or the petitioner resides: (1) either or both parents, including a parent who is a minor; (2) the guardian of the child; (3) the selectmen of any town having charge of any foundling child; (4) a duly authorized officer of a

child-care or child-placing agency or any children's home or similar institution approved by the Commissioner of the Department of Children and Families (DCF); (5) a relative of the child if the parent or parents have abandoned or deserted the child; or (6) the Commissioner of DCF, provided the custodial parent of the child has consented to the termination of parental rights, and the child has not been committed to the Commissioner, and no application for commitment has been made.

In any such case, a child who has attained the age of 12 must also join in the petition.

Where is a petition for termination of parental rights filed, and what information must be provided?

A petition for termination of parental rights must be filed in the probate court for the district in which the petitioner or the child resides, or, in the case of a minor who is under the guardianship of any child-care facility or child-placing agency, in the probate court for the district in which the main office or any local office of the agency is located.

The petitioner must provide the following information under oath: (1) the name, sex, date and place of birth, and present address of the child; (2) the name and address of the petitioner and his or her relationship to the child; (3) the names, birth dates, and addresses of the parents and guardians of the child, including that of the putative father or the father named by the mother. (If the parent is less than 18 years old, include the names and addresses of that child's parents.) (4) other important information requested in the Application/Termination of Parental Rights, PC-600. If a parent consents to termination, he must also complete an Affidavit/Consent to Termination of Parental Rights, JD-JM-60.

What are the procedures for termination of parental rights?

◆ NOTICE OF HEARING:

Within 30 days of the filing of the application, the Probate Court must hold a hearing on such application. There are two exceptions to this requirement. First, if an investigation has been ordered, the hearing will be continued. Second, if a parent has given consent to the termination of his or her parental rights, the hearing must be held within 20 days of receipt of the application. The Court must provide at least 10 days' notice to all interested parties, including the following:

- (1) both parents;
- (2) the father of a minor child born out of wedlock if, *at the time of filing*, any proper Court has already declared him to be the father, **or** he has acknowledged *in writing* to be the father, **or** he has regularly supported the child, **or** his name appears on the birth certificate, **or** he has filed a claim of paternity in a Probate Court, **or** he has been named the father in the petition;
- (3) the Commissioner of Children and Families;
- (4) the Attorney General;
- (5) the child's guardian;

(6) any other person deemed appropriate by the Probate Court, including a minor if over age 12.

◆ *TRANSFER TO ANOTHER PROBATE JUDGE:*

On its own motion or that of any interested party, the Probate Court may transfer any termination of parental rights case to another probate judge. The judge shall be appointed by the Probate Court Administrator from a panel of qualified probate judges who specialize in children's matters. If the case is transferred, the clerk will transfer the original files and papers in the case to the Probate Court that will hear the matter.

◆ *TRANSFER TO SUPERIOR COURT:*

Before a hearing is held on the merits of a contested termination of parental rights matter, either the Probate Court or any legal party (except the petitioner) may request the transfer of the case to Superior Court. If the matter is heard by the Probate Court, any party may appeal to the Superior Court, where a new trial will be held without regard to the findings of the Probate Court.

◆ *APPOINTMENT OF ATTORNEY:*

Parents whose parental rights are the subject of a termination application have the right to an attorney. If the parents cannot afford one and submit a supporting affidavit to the Court, the Court will appoint an attorney for them without charge. If the parent is a minor or incompetent, the Court must appoint an attorney to serve as guardian ad litem.

The Court must appoint an attorney for the minor child in all cases involving child abuse or neglect. The Court may also appoint an attorney for the child in other circumstances. It is the role of the attorney to advocate the child's stated position, if the child is of sufficient age and maturity to be able to formulate a position.

Federal law requires the appointment of a guardian ad litem (who may be an attorney) to represent the best interests of the child in all cases involving child abuse or neglect. Under state law, the Court must also appoint a guardian ad litem in all other matters where the Court deems it appropriate. The guardian ad litem does not necessarily advocate the child's stated position, but rather the best interests of the child.

◆ *INVESTIGATION AND EXAMINATION:*

The Court will normally require an investigation into the facts of the case, which will be conducted by a DCF social worker. If the matter is contested, the Court **must** obtain an investigation. The purpose of the investigation and the resulting written report is to aid the Court in determining the best interests of the child. Generally, a written report must be submitted to the Court within 90 days of the request, and the Court cannot hold a hearing on the merits of the application until that report has been received. The parties and their attorneys have a right to review it upon request.

The Court also has the power to order an examination of the child and/or the parents by a physician, psychiatrist or psychologist as an additional aid in assisting the Court to determine what course of action is in the child's best interests.

◆ *HEARING:*

The Court will hold a hearing on the application, and all interested parties and their attorneys will have the opportunity to offer evidence, examine and cross-examine witnesses, and present arguments for their respective positions. Contested hearings are often tape-recorded. Although the hearing may be relatively informal, the basic tenets of fundamental due process must be followed. All parties are well advised to be represented by competent legal counsel.

◆ *GROUND'S FOR TERMINATION*

The petitioner has the legal duty to prove to the Court, *by clear and convincing evidence*, that the termination is in the child's best interests, **and** one of the following grounds for termination exists:

(1) The child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child.

(2) The child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, education, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights.

(3) There is no ongoing parent-child relationship, which is defined as the relationship that ordinarily develops as a result of a parent's having met, on a continuing, day-to-day basis, the physical, emotional, moral and educational needs of the child, and to allow further time for the establishment or reestablishment of the parent-child relationship would be detrimental to the best interests of the child.

(4) The parent of a child who (1) has been found by the Superior Court or the Probate Court to have been neglected or uncared for in a prior proceeding **or** (2) is found to be neglected or uncared for and has been in the custody of the Commissioner of DCF for at least 15 months..., has failed to achieve such a degree of personal rehabilitation as would encourage the belief that within a reasonable time, and considering the age and needs of the child, such parent could assume a responsible position in the life of the child.

(5) The parent of a child under the age of seven who is neglected or uncared for has failed, is unable, or is unwilling to achieve that degree of personal rehabilitation as would encourage the belief that within a reasonable amount of time, considering the age and needs of the child, that parent could assume a responsible position in the child's life **and** that parent's parental rights of another child were previously terminated pursuant to a petition brought by DCF.

(6) The parent has deliberately killed or conspired to kill another of his children **or** has deliberately assaulted another of his children, resulting in serious bodily injury.

(7) The parent was convicted as an adult or as a delinquent by a Court of competent jurisdiction of sexual assault resulting in the conception of a child, except for a violation of C.G.S. §§53a-71 or 53a-

73a, provided the Court may terminate such parent's parental rights to such child at any time after such conviction.

(8) The parent consents to the termination. (If the parent is a minor, the minor's guardian ad litem must also consent.)

◆ *FACTORS FOR THE COURT TO CONSIDER* (except for consent cases):

(1) the timeliness, nature, and extent of services designed to facilitate the reunion of parent and child, which are offered to the parent by DCF or another approved agency;

(2) the terms of any outstanding Court order and the degree to which the parent has complied with those terms;

(3) the feelings and emotional ties of the child towards the parent and also towards others who have had custody or control of the child for at least a year and with whom the child has developed significant emotional ties;

(4) the age of the child;

(5) the efforts the parent has taken to adjust the parent's behavior or circumstances to facilitate the return of the child in the reasonably foreseeable future, including the contacts and communications the parent has had with the child;

(6) The extent to which the parent may have been prevented from seeing the child as a result of the unreasonable actions of others or the parent's economic circumstances.

◆ *EFFECT OF TERMINATION:*

The parent whose rights have **not** been terminated becomes the sole legal parent and guardian of the child, and the parent whose rights have been terminated loses all such rights.

What is a statutory parent?

If the rights of **both** parents have been terminated, the Court will appoint DCF or another approved child-placing agency as "statutory parent," unless the adoption is by a qualified relative. In that case, the Court will appoint a "guardian of the person." The statutory parent becomes the sole guardian of the child and is responsible for the child's welfare and protection, basically assuming the same responsibilities that the parents once had. It is the role of the statutory parent to place the child in adoption, which will be discussed later.

What happens to a child when both parents' rights have been terminated?

Both federal and state law require the guardian or statutory parent to report to the Court on a case plan for the permanent placement of the child within 30 days of the entry of the termination decree and at least every three months thereafter until the plan is implemented. The Court *may* hold a hearing when a report is filed; the Court *must* hold a hearing to review the case plan within 12 months of the termination decree and annually thereafter until any adoption plan has been finalized.

ADOPTION

When is a child free for adoption?

A child is considered "free for adoption" (eligible to be adopted) when:

- (1) the child has no living parents, **or**
- (2) all parental rights have been terminated according to the laws of the applicable state or country.

Who may give a child in adoption?

The following parties may "give" (place) a child in adoption, subject to the approval of the Probate Court:

- (1) a statutory parent;
- (2) a parent who has married someone not also the parent of the child, if:
 - a. the other parent has died or has had his parental rights terminated; **or**,
 - b. the child was born out of wedlock, and the rights of the putative father have been properly terminated; **or**,
 - c. she or he adopted the child as a single person.
- (3) the sole guardian of the person of the child if the parental rights of the other parent have been terminated.

What is an identified adoption and when is it permitted?

Generally, Connecticut does not permit someone interested in adopting a child to conduct an individual search for the prospective adoptee, except under the most stringent conditions. The State insists that certain safeguards be undertaken before it will permit a Probate Court to entertain such an adoption application. These restrictions **do not** apply to stepparents and other relatives of the child, which will be discussed later in this brochure. If you are interested in identifying your own adoptee, you should **first** contact DCF or a licensed child-placing agency **before** doing anything else. The child to be adopted may not be in the prospective adoptive home. **Never contact the parents of the child directly, without first speaking to a social worker from an approved child-placing agency.**

Who may adopt a child?

◆ STEPPARENT ADOPTION:

As described in Section (2) above, a person married to someone who is not also the parent of the child may adopt such a child, provided the parental rights of any surviving parent have first been properly terminated.

◆ *CO-PARENT ADOPTION:*

Subject to the agreement of the Probate Court, any parent of a minor child may agree in writing with one other person who shares parental responsibility for the child with such parent that the other person shall adopt or join in the adoption of the child. The parental rights, if any, of any person other than the parties to the agreement must have been terminated.

◆ *RELATIVE ADOPTION:*

A blood relative descended from a common ancestor not more than three generations removed from the child may also adopt. (Under certain circumstances, this includes the relatives of the father of a child born out of wedlock.)

◆ *OTHER QUALIFIED PARTIES:*

Any other qualified adult or married couple may also adopt a child, but only from a statutory parent and in accordance with the procedures later described.

CONSENT OF CHILD:

The application for any of these adoptions will not be granted without the consent of the child, *if* the child has reached the age of 12.

How does an adoption proceeding begin?

◆ *APPLICATION:*

A written application (in duplicate), together with the adoption agreement (between the party “giving” the child in adoption and the party wishing to adopt) is filed in the Probate Court district where the adopting parent resides or where the statutory parent has an office. Forms are available from the Probate Court.

◆ *INVESTIGATION:*

The Probate Court may order an investigation regarding the proposed adoption before holding a hearing. An investigation is required in a co-parent or relative adoption. Generally, DCF will not undertake those studies, due to budgetary constraints and the need to utilize its social workers for more pressing matters. Therefore, it is up to the petitioners to request their own study from an approved child-placing agency **and** to pay the cost of the study. If the petitioner is indigent, however, DCF will conduct the study. The study is undertaken for the purpose of ascertaining the overall needs of the child and the abilities of those adopting to meet those needs. If a study is ordered, please be patient, since an adoption is one of the most important steps that both child and adopting parent can undertake, and the Court wants to make sure that the child's best interests are served.

◆ **HEARING:**

When the investigation has been completed and a written report rendered, the Probate Court will hold a hearing. Notice will be given to all interested parties, including DCF. If the Court believes that the adoption is in the best interests *of the child*, it will approve the application. The law provides that an application shall not be denied solely due to the adopting parent's marital status or due to a difference in race, color, religion, or sexual orientation between the child and adoptive parent.

Are adoption proceedings open to the public?

The law requires that all adoption records be sealed from the public. Furthermore, only limited information concerning the genetic parents of any adopted child may be given to the adoptive parent by DCF or the child-placing agency. That information is general in nature, including such items as nationality, race, and education of the biological parent, as well as his or her health and religious history. Detailed procedures are prescribed by law for the release of identifying information when the adopted person reaches the age of 18. (See Connecticut General Statutes §45a-743, et. seq.)

Generally, anyone seeking such information must **first** request that information from the agency that originally placed the child. If the identity of that agency is unknown, the petitioner may ask the Adoption Resource Exchange or the Court to provide the name of the agency.

What is the legal effect of adoption between the child and adoptive parent?

C.G.S. § 45a-731 spells out the legal effects of adoption in detail. Inheritance rights, in particular, may be complicated, and the statute itself should be read carefully. In general, an adoption decree:

- (1) creates the relationship of parent and child between the two, as if the adoptive child were the natural child of the adopting parent;
- (2) relieves the natural parent whose rights were terminated of all parental rights and responsibilities;
- (3) creates a situation whereby neither the adopted child nor the natural parent will inherit from each other, unless either is specifically (by name) provided for by Will. Otherwise, the adopting parent will inherit the estate of an adopted child and vice versa.

Please note: A child may inherit from his or her *natural* parents if the rights of those parents have been terminated but no adoption was concluded.

May an adult be adopted by another adult?

Yes. Upon notice and after hearing, the probate judge may approve such an adoption if it is in the public interest and if it is for the welfare of the adopted individual. Generally, the spouse of both the adopting and adopted individual must consent to the adoption.

Who should be contacted for additional information?

For information concerning the placement of children available for adoption, you may contact your local DCF office or any licensed child-placing agency.

Appeals from Probate

Any person aggrieved by an order, denial, or decree of the probate court may appeal to the Superior Court. In a termination of parental rights proceeding or an adoption proceeding, the appeal must usually be taken within **30 days** from the date of the order, denial, or decree. However, there are two exceptions to this requirement: 1) If the person appealing from an order of termination of parental rights (other than an order of termination of parental rights based on consent) or from a decree of adoption has not received notice, the appeal must be taken within **90 days**. 2) An appeal from an order of termination of parental rights based on consent must be taken within **20 days**.