

1 AN ACT concerning adoption.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adoption Act is amended by changing Sections
5 7 and 8 as follows:

6 (750 ILCS 50/7) (from Ch. 40, par. 1509)

7 Sec. 7. Process.

8 A. All persons named in the petition for adoption or
9 standby adoption, other than the petitioners and any party who
10 has previously either denied being a parent pursuant to Section
11 12a of this Act or whose rights have been terminated pursuant
12 to Section 12a of this Act, but including the person sought to
13 be adopted, shall be made parties defendant by name, and if the
14 name or names of any such persons are alleged in the petition
15 to be unknown such persons shall be made parties defendant
16 under the name and style of "All whom it may concern". In all
17 such actions petitioner or his attorney shall file, at the
18 office of the clerk of the court in which the action is
19 pending, an affidavit showing that the defendant resides or has
20 gone out of this State, or on due inquiry cannot be found, or
21 is concealed within this State, so that process cannot be
22 served upon him, and stating the place of residence of the
23 defendant, if known, or that upon diligent inquiry his place of
24 residence cannot be ascertained, the clerk shall cause
25 publication to be made in some newspaper published in the
26 county in which the action is pending. If there is no newspaper
27 published in that county, then the publication shall be in a
28 newspaper published in an adjoining county in this State,
29 having a circulation in the county in which such action is
30 pending. In the event there is service on any of the parties by
31 publication, the publication shall contain notice of pendency
32 of the action, the name of the person to be adopted and the

1 name of the parties to be served by publication, and the date
2 on or after which default may be entered against such parties.
3 Neither the name of petitioners nor the name of any party who
4 has either surrendered said child, has given their consent to
5 the adoption of the child, or whose parental rights have been
6 terminated by a court of competent jurisdiction shall be
7 included in the notice of publication. The Clerk shall also,
8 within ten (10) days of the first publication of the notice,
9 send a copy thereof by mail, addressed to each defendant whose
10 place of residence is stated in such affidavit. The certificate
11 of the Clerk that he sent the copies pursuant to this section
12 is evidence that he has done so. Except as provided in this
13 section pertaining to service by publication, all parties
14 defendant shall be notified of the proceedings in the same
15 manner as is now or may hereafter be required in other civil
16 cases or proceedings. Any party defendant who is of age of 14
17 years or upward may waive service of process by entering an
18 appearance in writing. The form to be used for publication
19 shall be substantially as follows: "ADOPTION NOTICE - STATE OF
20 ILLINOIS, County of, ss. - Circuit Court of County.
21 In the matter of the Petition for the Adoption of, a
22 ..male child. Adoption No. To-- (whom it may concern
23 or the named parent) Take notice that a petition was filed in
24 the Circuit Court of County, Illinois, for the adoption of
25 a child named, Now, therefore, unless you, and all
26 whom it may concern, file your answer to the Petition in the
27 action or otherwise file your appearance therein, in the said
28 Circuit Court of, County, Room,, in the City of
29, Illinois, on or before the day of, a default
30 may be entered against you at any time after that day and a
31 judgment entered in accordance with the prayer of said
32 Petition. Dated,, Illinois,, Clerk. (Name and
33 address of attorney for petitioners.)

34 B. A minor defendant who has been served in accordance with
35 this Section may be defaulted in the same manner as any other
36 defendant.

1 C. Notwithstanding any inconsistent provision of this or
2 any other law, and in addition to the notice requirements of
3 any law pertaining to persons other than those specified in
4 this subsection, the persons entitled to notice that a petition
5 has been filed under Section 5 of this Act shall include:

6 (a) any person adjudicated by a court in this State to
7 be the father of the child;

8 (b) any person adjudicated by a court of another state
9 or territory of the United States to be the father of the
10 child, when a certified copy of the court order has been
11 filed with the Putative Father Registry under Section 12.1
12 of this Act;

13 (c) any person who at the time of the filing of the
14 petition is registered in the Putative Father Registry
15 under Section 12.1 of this Act as the putative father of
16 the child;

17 (d) any person who is recorded on the child's birth
18 certificate as the child's father;

19 (e) any person who is openly living with the child or
20 the child's mother at the time the proceeding is initiated
21 and who is holding himself out to be the child's father;

22 (f) any person who has been identified as the child's
23 father by the mother in a written, sworn statement,
24 including an Affidavit of Identification as specified
25 under Section 11 of this Act;

26 (g) any person who was married to the child's mother on
27 the date of the child's birth or within 300 days prior to
28 the child's birth.

29 The sole purpose of notice under this Section shall be to
30 enable the person receiving notice to appear in the adoption
31 proceedings to present evidence to the court relevant to
32 whether the consent or surrender of the person to the adoption
33 is required pursuant to Section 8 of this Act. If the court
34 determines that the consent or surrender of the person is not
35 required pursuant to Section 8 of this Act, then the person
36 shall not be entitled to participate in the proceedings or to

1 receive any further notice of the proceedings ~~the best~~
2 ~~interests of the child.~~

3 (Source: P.A. 91-572, eff. 1-1-00.)

4 (750 ILCS 50/8) (from Ch. 40, par. 1510)

5 Sec. 8. Consents to adoption and surrenders for purposes of
6 adoption.

7 (a) Except as hereinafter provided in this Section consents
8 or surrenders shall be required in all cases, unless the person
9 whose consent or surrender would otherwise be required shall be
10 found by the court:

11 (1) to be an unfit person as defined in Section 1 of
12 this Act, by clear and convincing evidence; or

13 (2) not to be the biological or adoptive father of the
14 child; or

15 (3) to have waived his parental rights to the child
16 under Section 12a or 12.1 of this Act; or

17 (4) to be the parent of an adult sought to be adopted;
18 or

19 (5) to be the father of the child as a result of
20 criminal sexual abuse or assault as defined under Article
21 12 of the Criminal Code of 1961 ~~.7 or~~

22 ~~(6) to have been indicated for child sexual abuse as~~
23 ~~defined in the Abused and Neglected Child Reporting Act~~
24 ~~that involved sexual penetration of the mother; or~~

25 ~~(7) to be at least 5 years older than the mother and~~
26 ~~the mother was under the age 17 at the time of conception~~
27 ~~of the child to be adopted.~~

28 (b) Where consents are required in the case of an adoption
29 of a minor child, the consents of the following persons shall
30 be sufficient:

31 (1) (A) The mother of the minor child; and

32 (B) The father of the minor child, if the father:

33 (i) was married to the mother on the date of
34 birth of the child or within 300 days before the
35 birth of the child, except for a husband or former

1 husband who has been found by a court of competent
2 jurisdiction not to be the biological father of the
3 child; or

4 (ii) is the father of the child under a
5 judgment for adoption, an order of parentage, or an
6 acknowledgment of parentage or paternity pursuant
7 to subsection (a) of Section 5 of the Illinois
8 Parentage Act of 1984; or

9 (iii) in the case of a child placed with the
10 adopting parents less than 6 months after birth,
11 openly lived with the child, the child's
12 biological mother, or both, and held himself out to
13 be the child's biological father during the first
14 30 days following the birth of the child; or

15 (iv) in the case of a child placed with the
16 adopting parents less than 6 months after birth,
17 made a good faith effort to pay a reasonable amount
18 of the expenses related to the birth of the child
19 and to provide a reasonable amount for the
20 financial support of the child before the
21 expiration of 30 days following the birth of the
22 child, provided that the court may consider in its
23 determination all relevant circumstances,
24 including the financial condition of both
25 biological parents; or

26 (v) in the case of a child placed with the
27 adopting parents more than 6 months after birth,
28 has maintained substantial and continuous or
29 repeated contact with the child as manifested by:
30 (I) the payment by the father toward the support of
31 the child of a fair and reasonable sum, according
32 to the father's means, and either (II) the father's
33 visiting the child at least monthly when
34 physically and financially able to do so and not
35 prevented from doing so by the person or authorized
36 agency having lawful custody of the child, or (III)

1 the father's regular communication with the child
2 or with the person or agency having the care or
3 custody of the child, when physically and
4 financially unable to visit the child or prevented
5 from doing so by the person or authorized agency
6 having lawful custody of the child. The subjective
7 intent of the father, whether expressed or
8 otherwise unsupported by evidence of acts
9 specified in this sub-paragraph as manifesting
10 such intent, shall not preclude a determination
11 that the father failed to maintain substantial and
12 continuous or repeated contact with the child; or

13 (vi) in the case of a child placed with the
14 adopting parents more than six months after birth,
15 openly lived with the child for a period of six
16 months within the one year period immediately
17 preceding the placement of the child for adoption
18 and openly held himself out to be the father of the
19 child; or

20 (vii) has timely registered with Putative
21 Father Registry, as provided in Section 12.1 of
22 this Act, and prior to the expiration of 30 days
23 from the date of such registration, commenced
24 legal proceedings to establish paternity under the
25 Illinois Parentage Act of 1984 or under the law of
26 the jurisdiction of the child's birth; or

27 (2) The legal guardian of the person of the child, if
28 there is no surviving parent; or

29 (3) An agency, if the child has been surrendered for
30 adoption to such agency; or

31 (4) Any person or agency having legal custody of a
32 child by court order if the parental rights of the parents
33 have been judicially terminated, and the court having
34 jurisdiction of the guardianship of the child has
35 authorized the consent to the adoption; or

36 (5) The execution and verification of the petition by

1 any petitioner who is also a parent of the child sought to
2 be adopted shall be sufficient evidence of such parent's
3 consent to the adoption.

4 (c) Where surrenders to an agency are required in the case
5 of a placement for adoption of a minor child by an agency, the
6 surrenders of the following persons shall be sufficient:

7 (1) (A) The mother of the minor child; and

8 (B) The father of the minor child, if the father:

9 (i) was married to the mother on the date of
10 birth of the child or within 300 days before the
11 birth of the child, except for a husband or former
12 husband who has been found by a court of competent
13 jurisdiction not to be the biological father of the
14 child; or

15 (ii) is the father of the child under a
16 judgment for adoption, an order of parentage, or an
17 acknowledgment of parentage or paternity pursuant
18 to subsection (a) of Section 5 of the Illinois
19 Parentage Act of 1984; or

20 (iii) in the case of a child placed with the
21 adopting parents less than 6 months after birth,
22 openly lived with the child, the child's
23 biological mother, or both, and held himself out to
24 be the child's biological father during the first
25 30 days following the birth of a child; or

26 (iv) in the case of a child placed with the
27 adopting parents less than 6 months after birth,
28 made a good faith effort to pay a reasonable amount
29 of the expenses related to the birth of the child
30 and to provide a reasonable amount for the
31 financial support of the child before the
32 expiration of 30 days following the birth of the
33 child, provided that the court may consider in its
34 determination all relevant circumstances,
35 including the financial condition of both
36 biological parents; or

1 (v) in the case of a child placed with the
2 adopting parents more than six months after birth,
3 has maintained substantial and continuous or
4 repeated contact with the child as manifested by:
5 (I) the payment by the father toward the support of
6 the child of a fair and reasonable sum, according
7 to the father's means, and either (II) the father's
8 visiting the child at least monthly when
9 physically and financially able to do so and not
10 prevented from doing so by the person or authorized
11 agency having lawful custody of the child or (III)
12 the father's regular communication with the child
13 or with the person or agency having the care or
14 custody of the child, when physically and
15 financially unable to visit the child or prevented
16 from doing so by the person or authorized agency
17 having lawful custody of the child. The subjective
18 intent of the father, whether expressed or
19 otherwise, unsupported by evidence of acts
20 specified in this sub-paragraph as manifesting
21 such intent, shall not preclude a determination
22 that the father failed to maintain substantial and
23 continuous or repeated contact with the child; or

24 (vi) in the case of a child placed with the
25 adopting parents more than six months after birth,
26 openly lived with the child for a period of six
27 months within the one year period immediately
28 preceding the placement of the child for adoption
29 and openly held himself out to be the father of the
30 child; or

31 (vii) has timely registered with the Putative
32 Father Registry, as provided in Section 12.1 of
33 this Act, and prior to the expiration of 30 days
34 from the date of such registration, commenced
35 legal proceedings to establish paternity under the
36 Illinois Parentage Act of 1984, or under the law of

1 the jurisdiction of the child's birth.

2 (d) In making a determination under subparagraphs (b) (1)
3 and (c) (1), no showing shall be required of diligent efforts by
4 a person or agency to encourage the father to perform the acts
5 specified therein.

6 (e) In the case of the adoption of an adult, only the
7 consent of such adult shall be required.

8 (Source: P.A. 93-510, eff. 1-1-04.)