

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, then the person shall not be  
36 entitled to participate in the proceedings or to any further

1 notice of the proceedings ~~the best interests of the child.~~

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

3 (750 ILCS 50/8) (from Ch. 40, par. 1510)

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

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

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

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

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

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

18 (5) to be the father of the child as a result of  
19 criminal sexual abuse or assault as defined under Article  
20 12 of the Criminal Code of 1961, including but not limited  
21 to:

22 (i) the father of the child, who is a family member  
23 of the mother of the child, and the mother is under the  
24 age of 18 at the time of the child's conception; for  
25 purposes of this subsection, a "family member" is a  
26 parent, step-parent, grandparent, step-grandparent,  
27 sibling; or cousin of the first degree, whether by  
28 whole blood, half-blood, or adoption, as well as a  
29 person who has resided in the household with the mother  
30 continuously for at least one year; or

31 (ii) the father of the child, who is at least 5  
32 years older than the child's mother, and the mother was  
33 under the age of 17 at the time of the child's  
34 conception, unless the mother and father voluntarily  
35 acknowledge the father's paternity of the child by

1 marrying or by establishing the father's paternity by  
2 consent of the parties pursuant to the Illinois  
3 Parentage Act of 1984 or pursuant to a substantially  
4 similar statute in another state.

5 A criminal conviction of any offense pursuant to  
6 Article 12 of the Criminal Code of 1961 is not required.†

7 ~~or~~

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

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

14 (b) Where consents are required in the case of an adoption  
15 of a minor child, the consents of the following persons shall  
16 be sufficient:

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

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

19 (i) was married to the mother on the date of  
20 birth of the child or within 300 days before the  
21 birth of the child, except for a husband or former  
22 husband who has been found by a court of competent  
23 jurisdiction not to be the biological father of the  
24 child; or

25 (ii) is the father of the child under a  
26 judgment for adoption, an order of parentage, or an  
27 acknowledgment of parentage or paternity pursuant  
28 to subsection (a) of Section 5 of the Illinois  
29 Parentage Act of 1984; or

30 (iii) in the case of a child placed with the  
31 adopting parents less than 6 months after birth,  
32 openly lived with the child, the child's  
33 biological mother, or both, and held himself out to  
34 be the child's biological father during the first  
35 30 days following the birth of the child; or

36 (iv) in the case of a child placed with the

1           adopting parents less than 6 months after birth,  
2           made a good faith effort to pay a reasonable amount  
3           of the expenses related to the birth of the child  
4           and to provide a reasonable amount for the  
5           financial support of the child before the  
6           expiration of 30 days following the birth of the  
7           child, provided that the court may consider in its  
8           determination all relevant circumstances,  
9           including the financial condition of both  
10          biological parents; or

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

34           (vi) in the case of a child placed with the  
35          adopting parents more than six months after birth,  
36          openly lived with the child for a period of six

1 months within the one year period immediately  
2 preceding the placement of the child for adoption  
3 and openly held himself out to be the father of the  
4 child; or

5 (vii) has timely registered with Putative  
6 Father Registry, as provided in Section 12.1 of  
7 this Act, and prior to the expiration of 30 days  
8 from the date of such registration, commenced  
9 legal proceedings to establish paternity under the  
10 Illinois Parentage Act of 1984 or under the law of  
11 the jurisdiction of the child's birth; or

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

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

16 (4) Any person or agency having legal custody of a  
17 child by court order if the parental rights of the parents  
18 have been judicially terminated, and the court having  
19 jurisdiction of the guardianship of the child has  
20 authorized the consent to the adoption; or

21 (5) The execution and verification of the petition by  
22 any petitioner who is also a parent of the child sought to  
23 be adopted shall be sufficient evidence of such parent's  
24 consent to the adoption.

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

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

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

30 (i) was married to the mother on the date of  
31 birth of the child or within 300 days before the  
32 birth of the child, except for a husband or former  
33 husband who has been found by a court of competent  
34 jurisdiction not to be the biological father of the  
35 child; or

36 (ii) is the father of the child under a

1 judgment for adoption, an order of parentage, or an  
2 acknowledgment of parentage or paternity pursuant  
3 to subsection (a) of Section 5 of the Illinois  
4 Parentage Act of 1984; or

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

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

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



1 from doing so by the person or authorized agency  
2 having lawful custody of the child. The subjective  
3 intent of the father, whether expressed or  
4 otherwise, unsupported by evidence of acts  
5 specified in this sub-paragraph as manifesting  
6 such intent, shall not preclude a determination  
7 that the father failed to maintain substantial and  
8 continuous or repeated contact with the child; or

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

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

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

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

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