



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2405

Introduced 2/19/2009, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

750 ILCS 50/10

from Ch. 40, par. 1512

Amends the Adoption Act. Provides that a consent shall be acknowledged before a judge of a court of competent jurisdiction (instead of the presiding judge of the court in which the petition for adoption has been or is to be filed or before any other judge designated or approved by the court or an authorized circuit clerk) or before a representative of an agency (instead of the Department of Children and Family Services or a licensed child welfare agency) or before a person, other than the attorney for the adoptive parents, designated by a court of competent jurisdiction (instead of before social service personnel of a court of competent jurisdiction or social service personnel of the Cook County Department of Supportive Services designated by the presiding judge). Provides that a surrender shall be acknowledged before a judge of a court of competent jurisdiction (instead of a judge, hearing officer, or court clerk in Illinois or another other state). Provides that a person incarcerated or detained in a prison or comparable institution who executes a consent or surrender may have it acknowledged by social service personnel of that institution or by a person designated by a court of competent jurisdiction. Provides that a consent or surrender may be acknowledged telephonically, via audiovisual connection, or other electronic means, provided that a court of competent jurisdiction has entered an order approving that method and has designated an individual to be physically present with the parent executing the consent or surrender to verify the parent's identity. Provides that an agency representative acknowledging a consent or surrender shall be from a public child welfare agency, child welfare agency, or a child placing agency that is authorized or licensed in the state or jurisdiction in which the consent or surrender is signed.

LRB096 04182 AJ0 14224 b

1 AN ACT concerning civil law.

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 Section
5 10 as follows:

6 (750 ILCS 50/10) (from Ch. 40, par. 1512)

7 Sec. 10. Forms of consent and surrender; execution and
8 acknowledgment thereof. A. The form of consent required for
9 the adoption of a born child shall be substantially as follows:

10 FINAL AND IRREVOCABLE CONSENT TO ADOPTION

11 I,, (relationship, e.g., mother, father, relative,
12 guardian) of, a ..male child, state:

13 That such child was born on at

14 That I reside at, County of and State of

15 That I am of the age of years.

16 That I hereby enter my appearance in this proceeding and
17 waive service of summons on me.

18 That I do hereby consent and agree to the adoption of such
19 child.

20 That I wish to and understand that by signing this consent
21 I do irrevocably and permanently give up all custody and other
22 parental rights I have to such child.

23 That I understand such child will be placed for adoption

1 and that I cannot under any circumstances, after signing this
 2 document, change my mind and revoke or cancel this consent or
 3 obtain or recover custody or any other rights over such child.
 4 That I have read and understand the above and I am signing it
 5 as my free and voluntary act.

6 Dated (insert date).
 7

8 If under Section 8 the consent of more than one person is
 9 required, then each such person shall execute a separate
 10 consent.

11 B. The form of consent required for the adoption of an
 12 unborn child shall be substantially as follows:

13 CONSENT TO ADOPTION OF UNBORN CHILD

14 I,, state:

15 That I am the father of a child expected to be born on or
 16 about to (name of mother).

17 That I reside at County of, and State of

18 That I am of the age of years.

19 That I hereby enter my appearance in such adoption
 20 proceeding and waive service of summons on me.

21 That I do hereby consent and agree to the adoption of such
 22 child, and that I have not previously executed a consent or
 23 surrender with respect to such child.

24 That I wish to and do understand that by signing this
 25 consent I do irrevocably and permanently give up all custody

1 and other parental rights I have to such child, except that I
2 have the right to revoke this consent by giving written notice
3 of my revocation not later than 72 hours after the birth of the
4 child.

5 That I understand such child will be placed for adoption
6 and that, except as hereinabove provided, I cannot under any
7 circumstances, after signing this document, change my mind and
8 revoke or cancel this consent or obtain or recover custody or
9 any other rights over such child.

10 That I have read and understand the above and I am signing
11 it as my free and voluntary act.

12 Dated (insert date).
13

14 B-5. (1) The parent of a child may execute a consent to
15 standby adoption by a specified person or persons. A consent
16 under this subsection B-5 shall be acknowledged by a parent
17 pursuant to subsection H and subsection K of this Section. The
18 form of consent required for the standby adoption of a born
19 child effective at a future date when the consenting parent of
20 the child dies or requests that a final judgment of adoption be
21 entered shall be substantially as follows:

22 FINAL AND IRREVOCABLE CONSENT
23 TO STANDBY ADOPTION

24 I, ..., (relationship, e.g. mother or father) of ..., a
25 ..male child, state:

26 That the child was born on at

1 That I reside at, County of, and State of

2 That I am of the age of years.

3 That I hereby enter my appearance in this proceeding and
4 waive service of summons on me in this action only.

5 That I do hereby consent and agree to the standby adoption
6 of the child, and that I have not previously executed a consent
7 or surrender with respect to the child.

8 That I wish to and understand that by signing this consent
9 I do irrevocably and permanently give up all custody and other
10 parental rights I have to the child, effective upon (my death)
11 (the child's other parent's death) or upon (my) (the other
12 parent's) request for the entry of a final judgment for
13 adoption if (specified person or persons) adopt my child.

14 That I understand that until (I die) (the child's other
15 parent dies), I retain all legal rights and obligations
16 concerning the child, but at that time, I irrevocably give all
17 custody and other parental rights to (specified person or
18 persons).

19 I understand my child will be adopted by (specified
20 person or persons) only and that I cannot, under any
21 circumstances, after signing this document, change my mind and
22 revoke or cancel this consent or obtain or recover custody or
23 any other rights over my child if (specified person or
24 persons) adopt my child.

25 I understand that this consent to standby adoption is valid
26 only if the petition for standby adoption is filed and that if

1 (specified person or persons), for any reason, cannot
 2 or will not file a petition for standby adoption or if his,
 3 her, or their petition for standby adoption is denied, then
 4 this consent is void. I have the right to notice of any other
 5 proceeding that could affect my parental rights.

6 That I have read and understand the above and I am signing
 7 it as my free and voluntary act.

8 Dated (insert date).

9

10 If under Section 8 the consent of more than one person is
 11 required, then each such person shall execute a separate
 12 consent. A separate consent shall be executed for each child.

13 (2) If the parent consents to a standby adoption by 2
 14 specified persons, then the form shall contain 2 additional
 15 paragraphs in substantially the following form:

16 If (specified persons) obtain a judgment of
 17 dissolution of marriage before the judgment for adoption is
 18 entered, then (specified person) shall adopt my child. I
 19 understand that I cannot change my mind and revoke this consent
 20 or obtain or recover custody of my child if (specified
 21 persons) obtain a judgment of dissolution of marriage and
 22 (specified person) adopts my child. I understand that I cannot
 23 change my mind and revoke this consent if (specified
 24 persons) obtain a judgment of dissolution of marriage before
 25 the adoption is final. I understand that this consent to

1 adoption has no effect on who will get custody of my child if
 2 (specified persons) obtain a judgment of dissolution of
 3 marriage after the adoption is final. I understand that if
 4 either (specified persons) dies before the petition to
 5 adopt my child is granted, then the surviving person may adopt
 6 my child. I understand that I cannot change my mind and revoke
 7 this consent or obtain or recover custody of my child if the
 8 surviving person adopts my child.

9 A consent to standby adoption by specified persons on this
 10 form shall have no effect on a court's determination of custody
 11 or visitation under the Illinois Marriage and Dissolution of
 12 Marriage Act if the marriage of the specified persons is
 13 dissolved before the adoption is final.

14 (3) The form of the certificate of acknowledgement for a
 15 Final and Irrevocable Consent for Standby Adoption shall be
 16 substantially as follows:

17 STATE OF)
 18) SS.
 19 COUNTY OF)

20 I, (name of Judge or other person) (official
 21 title, name, and address), certify that, personally
 22 known to me to be the same person whose name is subscribed to
 23 the foregoing Final and Irrevocable Consent to Standby
 24 Adoption, appeared before me this day in person and

1 acknowledged that (she) (he) signed and delivered the consent
2 as (her) (his) free and voluntary act, for the specified
3 purpose.

4 I have fully explained that this consent to adoption is
5 valid only if the petition to adopt is filed, and that if the
6 specified person or persons, for any reason, cannot or will not
7 adopt the child or if the adoption petition is denied, then
8 this consent will be void. I have fully explained that if the
9 specified person or persons adopt the child, by signing this
10 consent (she) (he) is irrevocably and permanently
11 relinquishing all parental rights to the child, and (she) (he)
12 has stated that such is (her) (his) intention and desire.

13 Dated (insert date).

14 Signature.....

15 (4) If a consent to standby adoption is executed in this
16 form, the consent shall be valid only if the specified person
17 or persons adopt the child. The consent shall be void if:

18 (a) the specified person or persons do not file a petition
19 for standby adoption of the child; or

20 (b) a court denies the standby adoption petition.

21 The parent shall not need to take further action to revoke
22 the consent if the standby adoption by the specified person or
23 persons does not occur, notwithstanding the provisions of
24 Section 11 of this Act.

25 C. The form of surrender to any agency given by a parent of
26 a born child who is to be subsequently placed for adoption

1 shall be substantially as follows and shall contain such other
2 facts and statements as the particular agency shall require.

3 FINAL AND IRREVOCABLE SURRENDER

4 FOR PURPOSES OF ADOPTION

5 I, (relationship, e.g., mother, father, relative,
6 guardian) of, a ..male child, state:

7 That such child was born on, at

8 That I reside at, County of, and State of

9 That I am of the age of years.

10 That I do hereby surrender and entrust the entire custody
11 and control of such child to the (the "Agency"), a
12 (public) (licensed) child welfare agency with its principal
13 office in the City of, County of and State of,
14 for the purpose of enabling it to care for and supervise the
15 care of such child, to place such child for adoption and to
16 consent to the legal adoption of such child.

17 That I hereby grant to the Agency full power and authority
18 to place such child with any person or persons it may in its
19 sole discretion select to become the adopting parent or parents
20 and to consent to the legal adoption of such child by such
21 person or persons; and to take any and all measures which, in
22 the judgment of the Agency, may be for the best interests of
23 such child, including authorizing medical, surgical and dental
24 care and treatment including inoculation and anaesthesia for
25 such child.

26 That I wish to and understand that by signing this

1 surrender I do irrevocably and permanently give up all custody
2 and other parental rights I have to such child.

3 That I understand I cannot under any circumstances, after
4 signing this surrender, change my mind and revoke or cancel
5 this surrender or obtain or recover custody or any other rights
6 over such child.

7 That I have read and understand the above and I am signing
8 it as my free and voluntary act.

9 Dated (insert date).

10

11 D. The form of surrender to an agency given by a parent of
12 an unborn child who is to be subsequently placed for adoption
13 shall be substantially as follows and shall contain such other
14 facts and statements as the particular agency shall require.

15 SURRENDER OF UNBORN CHILD FOR
16 PURPOSES OF ADOPTION

17 I, (father), state:

18 That I am the father of a child expected to be born on or
19 about to (name of mother).

20 That I reside at, County of, and State of

21 That I am of the age of years.

22 That I do hereby surrender and entrust the entire custody
23 and control of such child to the (the "Agency"), a
24 (public) (licensed) child welfare agency with its principal
25 office in the City of, County of and State of,
26 for the purpose of enabling it to care for and supervise the

1 care of such child, to place such child for adoption and to
 2 consent to the legal adoption of such child, and that I have
 3 not previously executed a consent or surrender with respect to
 4 such child.

5 That I hereby grant to the Agency full power and authority
 6 to place such child with any person or persons it may in its
 7 sole discretion select to become the adopting parent or parents
 8 and to consent to the legal adoption of such child by such
 9 person or persons; and to take any and all measures which, in
 10 the judgment of the Agency, may be for the best interests of
 11 such child, including authorizing medical, surgical and dental
 12 care and treatment, including inoculation and anaesthesia for
 13 such child.

14 That I wish to and understand that by signing this
 15 surrender I do irrevocably and permanently give up all custody
 16 and other parental rights I have to such child.

17 That I understand I cannot under any circumstances, after
 18 signing this surrender, change my mind and revoke or cancel
 19 this surrender or obtain or recover custody or any other rights
 20 over such child, except that I have the right to revoke this
 21 surrender by giving written notice of my revocation not later
 22 than 72 hours after the birth of such child.

23 That I have read and understand the above and I am signing
 24 it as my free and voluntary act.

25 Dated (insert date).

26

1 appointment and the authority of the guardian to execute such
2 consent.

3 H. A consent (other than that given by an agency, or
4 guardian of the person of the child sought to be adopted who
5 was appointed by a court of competent jurisdiction) shall be
6 acknowledged by a parent before ~~a the presiding~~ judge of ~~a the~~
7 court of competent jurisdiction ~~in which the petition for~~
8 ~~adoption has been, or is to be filed or before any other judge~~
9 ~~or hearing officer designated or subsequently approved by the~~
10 ~~court, or the circuit clerk if so authorized by the presiding~~
11 ~~judge~~ or, except as otherwise provided in this Act, before a
12 representative of ~~an the Department of Children and Family~~
13 ~~Services or a licensed child welfare~~ agency, or before a
14 person, other than the attorney for the prospective adoptive
15 parent or parents, designated by social service personnel under
16 ~~the jurisdiction of a court of competent jurisdiction, or~~
17 ~~before social service personnel of the Cook County Department~~
18 ~~of Supportive Services designated by the presiding judge.~~

19 I. A surrender, or any other document equivalent to a
20 surrender, by which a child is surrendered to an agency shall
21 be acknowledged by the person signing such surrender, or other
22 document, before a judge of a court of competent jurisdiction
23 ~~or hearing officer or the clerk of any court of record, either~~
24 ~~in this State or any other state of the United States, or,~~
25 except as otherwise provided in this Act, before a
26 representative of an agency, or before a ~~any other~~ person

1 designated ~~or approved~~ by a ~~the presiding judge of the court of~~
2 competent jurisdiction ~~in which the petition for adoption has~~
3 ~~been, or is to be, filed.~~

4 J. The form of the certificate of acknowledgment for a
5 consent, a surrender, or any other document equivalent to a
6 surrender, shall be substantially as follows:

7 STATE OF)

8) SS.

9 COUNTY OF ...)

10 I, (Name of judge or other person), (official
11 title, name and location of court or status or position of
12 other person), certify that, personally known to me to be
13 the same person whose name is subscribed to the foregoing
14 (consent) (surrender), appeared before me this day in person
15 and acknowledged that (she) (he) signed and delivered such
16 (consent) (surrender) as (her) (his) free and voluntary act,
17 for the specified purpose.

18 I have fully explained that by signing such (consent)
19 (surrender) (she) (he) is irrevocably relinquishing all
20 parental rights to such child or adult and (she) (he) has
21 stated that such is (her) (his) intention and desire.

22 Dated (insert date).

23 Signature

24 K. When the execution of a consent or a surrender is
25 acknowledged before someone other than a judge ~~or the clerk of~~
26 ~~a court of record~~, such other person shall have his or her

1 signature on the certificate acknowledged before a notary
2 public, in form substantially as follows:

3 STATE OF)

4) SS.

5 COUNTY OF ...)

6 I, a Notary Public, in and for the County of, in the
7 State of, certify that, personally known to me to
8 be the same person whose name is subscribed to the foregoing
9 certificate of acknowledgment, appeared before me in person and
10 acknowledged that (she) (he) signed such certificate as (her)
11 (his) free and voluntary act and that the statements made in
12 the certificate are true.

13 Dated (insert date).

14 Signature Notary Public
15 (official seal)

16 There shall be attached a certificate of magistracy, or
17 other comparable proof of office of the notary public
18 satisfactory to the court, to a consent signed and acknowledged
19 in another state.

20 L. A surrender or consent executed and acknowledged outside
21 of this State, either in accordance with the law of this State
22 or in accordance with the law of the place where executed, is
23 valid.

24 M. Where a consent or a surrender is signed in a foreign
25 country, the execution of such consent shall be acknowledged or

1 affirmed in a manner conformable to the law and procedure of
2 such country.

3 N. If the person signing a consent or surrender is in the
4 military service of the United States, the execution of such
5 consent or surrender may be acknowledged before a commissioned
6 officer and the signature of such officer on such certificate
7 shall be verified or acknowledged before a notary public or by
8 such other procedure as is then in effect for such division or
9 branch of the armed forces.

10 O. (1) The parent or parents of a child in whose interests
11 a petition under Section 2-13 of the Juvenile Court Act of 1987
12 is pending may, with the approval of the designated
13 representative of the Department of Children and Family
14 Services, execute a consent to adoption by a specified person
15 or persons:

16 (a) in whose physical custody the child has resided for
17 at least 6 months; or

18 (b) in whose physical custody at least one sibling of
19 the child who is the subject of this consent has resided
20 for at least 6 months, and the child who is the subject of
21 this consent is currently residing in this foster home; or

22 (c) in whose physical custody a child under one year of
23 age has resided for at least 3 months.

24 A consent under this subsection O shall be acknowledged by a
25 parent pursuant to subsection H and subsection K of this
26 Section.

1 (2) The consent to adoption by a specified person or
2 persons shall have the caption of the proceeding in which it is
3 to be filed and shall be substantially as follows:

4 FINAL AND IRREVOCABLE CONSENT TO ADOPTION BY
5 A SPECIFIED PERSON OR PERSONS

6 I,, the
7 (mother or father) of amale child,
8 state:

9 1. My child (name of
10 child) was born on (insert date) at
11 Hospital in County, State of
12

13 2. I reside at, County of
14 and State of

15 3. I,, am years old.

16 4. I enter my appearance in this action to adopt my
17 child by the person or persons specified herein by me and
18 waive service of summons on me in this action only.

19 5. I consent to the adoption of my child by
20 (specified person or
21 persons) only.

22 6. I wish to sign this consent and I understand that by
23 signing this consent I irrevocably and permanently give up
24 all parental rights I have to my child if my child is
25 adopted by (specified person
26 or persons).

1 7. I understand my child will be adopted by
 2 (specified person or
 3 persons) only and that I cannot under any circumstances,
 4 after signing this document, change my mind and revoke or
 5 cancel this consent or obtain or recover custody or any
 6 other rights over my child if
 7 (specified person or persons) adopt my child.

8 8. I understand that this consent to adoption is valid
 9 only if the petition to adopt is filed within one year from
 10 the date that I sign it and that if
 11 (specified person or persons), for any reason, cannot or
 12 will not file a petition to adopt my child within that one
 13 year period or if their adoption petition is denied, then
 14 this consent will be voidable after one year upon the
 15 timely filing of my motion. If I file this motion before
 16 the filing of the petition for adoption, I understand that
 17 the court shall revoke this specific consent. I have the
 18 right to notice of any other proceeding that could affect
 19 my parental rights, except for the proceeding for
 20 (specified person or persons) to adopt my
 21 child.

22 9. I have read and understand the above and I am
 23 signing it as my free and voluntary act.

24 Dated (insert date).

25

26 Signature of parent

1 (3) If the parent consents to an adoption by 2 specified
2 persons, then the form shall contain 2 additional paragraphs in
3 substantially the following form:

4 10. If (specified persons) get a
5 divorce before the petition to adopt my child is granted,
6 then (specified person) shall adopt my child. I
7 understand that I cannot change my mind and revoke this
8 consent or obtain or recover custody over my child if
9 (specified persons) divorce and
10 (specified person) adopts my child. I
11 understand that I cannot change my mind and revoke this
12 consent or obtain or recover custody over my child if
13 (specified persons) divorce after the
14 adoption is final. I understand that this consent to
15 adoption has no effect on who will get custody of my child
16 if they divorce after the adoption is final.

17 11. I understand that if either
18 (specified persons) dies before the petition to adopt my
19 child is granted, then the surviving person can adopt my
20 child. I understand that I cannot change my mind and revoke
21 this consent or obtain or recover custody over my child if
22 the surviving person adopts my child.

23 A consent to adoption by specified persons on this form
24 shall have no effect on a court's determination of custody or
25 visitation under the Illinois Marriage and Dissolution of
26 Marriage Act if the marriage of the specified persons is

1 dissolved after the adoption is final.

2 (4) The form of the certificate of acknowledgement for a
3 Final and Irrevocable Consent for Adoption by a Specified
4 Person or Persons shall be substantially as follows:

5 STATE OF.....)

6) SS.

7 COUNTY OF.....)

8 I, (Name of Judge or other person),
9 (official title, name, and address),
10 certify that, personally known to me to be the
11 same person whose name is subscribed to the foregoing Final and
12 Irrevocable Consent for Adoption by a Specified Person or
13 Persons, appeared before me this day in person and acknowledged
14 that (she)(he) signed and delivered the consent as (her)(his)
15 free and voluntary act, for the specified purpose.

16 I have fully explained that this consent to adoption is
17 valid only if the petition to adopt is filed within one year
18 from the date that it is signed, and that if the specified
19 person or persons, for any reason, cannot or will not adopt the
20 child or if the adoption petition is denied, then this consent
21 will be voidable after one year upon the timely filing of a
22 motion by the parent to revoke the consent. I explained that if
23 this motion is filed before the filing of the petition for
24 adoption, the court shall revoke this specific consent. I have

1 fully explained that if the specified person or persons adopt
 2 the child, by signing this consent this parent is irrevocably
 3 and permanently relinquishing all parental rights to the child,
 4 and this parent has stated that such is (her) (his) intention
 5 and desire.

6 Dated (insert date).

7

8 Signature

9 (5) If a consent to adoption by a specified person or
 10 persons is executed in this form, the following provisions
 11 shall apply. The consent shall be valid only if that specified
 12 person or persons adopt the child. The consent shall be
 13 voidable after one year if:

14 (a) the specified person or persons do not file a
 15 petition to adopt the child within one year after the
 16 consent is signed and the parent files a timely motion to
 17 revoke this consent. If this motion is filed before the
 18 filing of the petition for adoption the court shall revoke
 19 this consent; or

20 (b) a court denies the adoption petition; or

21 (c) the Department of Children and Family Services
 22 Guardianship Administrator determines that the specified
 23 person or persons will not or cannot complete the adoption,
 24 or in the best interests of the child should not adopt the
 25 child.

26 Within 30 days of the consent becoming void, the Department

1 of Children and Family Services Guardianship Administrator
2 shall make good faith attempts to notify the parent in writing
3 and shall give written notice to the court and all additional
4 parties in writing that the adoption has not occurred or will
5 not occur and that the consent is void. If the adoption by a
6 specified person or persons does not occur, no proceeding for
7 termination of parental rights shall be brought unless the
8 biological parent who executed the consent to adoption by a
9 specified person or persons has been notified of the proceeding
10 pursuant to Section 7 of this Act or subsection (4) of Section
11 2-13 of the Juvenile Court Act of 1987. The parent shall not
12 need to take further action to revoke the consent if the
13 specified adoption does not occur, notwithstanding the
14 provisions of Section 11 of this Act.

15 (6) The Department of Children and Family Services is
16 authorized to promulgate rules necessary to implement this
17 subsection O.

18 (7) The Department shall collect and maintain data
19 concerning the efficacy of specific consents. This data shall
20 include the number of specific consents executed and their
21 outcomes, including but not limited to the number of children
22 adopted pursuant to the consents, the number of children for
23 whom adoptions are not completed, and the reason or reasons why
24 the adoptions are not completed.

25 P. If the person signing a consent or surrender is
26 incarcerated or detained in a correctional facility, prison,

1 jail, detention center, or other comparable institution,
2 either in this State or any other jurisdiction, the execution
3 of such consent or surrender may be acknowledged before social
4 service personnel of such institution, or before a person
5 designated by a court of competent jurisdiction.

6 Q. A consent or surrender may be acknowledged
7 telephonically, via audiovisual connection, or other
8 electronic means, provided that a court of competent
9 jurisdiction has entered an order approving the execution of
10 the consent or surrender in such manner and has designated an
11 individual to be physically present with the parent executing
12 such consent or surrender in order to verify the identify of
13 the parent.

14 R. An agency whose representative is acknowledging a
15 consent or surrender pursuant to this Section shall be a public
16 child welfare agency, child welfare agency, or a child placing
17 agency that is authorized or licensed in the State or
18 jurisdiction in which the consent or surrender is signed.

19 (Source: P.A. 92-320, eff. 1-1-02; 93-732, eff. 1-1-05.)