

## BIRTH PARENTS' RIGHTS AND RESPONSIBILITIES IN ILLINOIS

***This document does not constitute legal advice. Legal advice is dependent on the specific circumstances of each situation and jurisdiction. The information in this document is an overview and does not cover all cases or facets of adoption law in Illinois. It cannot replace the advice of an attorney licensed in your state.***

Illinois has progressive adoption laws that protect the rights of birth parents and adoptive parents. Birth parents who are using the services of an adoption agency in Illinois must receive this document from her or his caseworker as soon as is reasonably practical after meeting with an agency worker. Birth parents may take this document home to read in private prior to reviewing it with a worker from the agency.

The information in this document is generally intended to refer to the rights of birth parents in private and agency-assisted adoptions, and does not refer to situations involving adoptions that go through the child welfare system and Juvenile Court. While much of the information contained in this document is applicable, birth parents who are considering adoption and have cases pending in Juvenile Court related to the adoption are advised to seek the assistance of their assigned caseworkers and their attorneys.

If you choose to place your child for adoption in Illinois, the adoption can be assisted by a

- ◆ licensed Illinois adoption agency (an 'agency-assisted adoption'); or
- ◆ an attorney who is licensed in Illinois (a 'private adoption').

### RIGHTS OF BIRTH PARENTS

**As a Birth Parent in Illinois, you have the right to:**

1. Be treated with dignity and respect at all times.
2. Make decisions free from coercion or pressure.
3. Work with social service agencies, including those providing public assistance, while you are in the process of deciding whether to place your child for adoption or to parent your child. These agencies may be able to provide you with assistance regardless of your decision.
4. Confidentiality. No one has the right to share your identifying information (unless required otherwise by Illinois law or unless directed otherwise by court order) without your permission.
5. Be advised that your and your families' non-identifying social, medical and mental health information will always be shared in an agency-assisted adoption and may be shared with adopting parents in private adoptions.

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6. Request and receive counseling during the pregnancy and after the birth of your child.
7. Ask to be involved in choosing your child's adoptive parents and to meet them prior to placement; or to choose another agency if your request cannot be honored.
8. Ask to participate in an open or closed adoption with the child's adoptive parents, with the understanding that any agreement or promises regarding your ability to have contact with your child or receive information after the finalization of the adoption cannot be enforced under Illinois law.
9. Decide on your own hospital plan if you are a birth mother. You may choose to have access to your child while he or she is in the hospital or to see your child and exercise your parental rights before signing a final and irrevocable surrender or consent to adoption. **Please note:** If you are a birth father and are not married to the birth mother, you will generally need the permission and agreement of the birth mother to have access to the baby in the hospital, or to exercise your parental rights.
10. Receive copies of all documents that you sign and have them provided to you in your preferred language.
11. Work with an adoption agency or attorney of your choice, including the right to change to a different agency or attorney at any time, without consequence, as long as you promptly inform all the parties involved.
12. Include your family and friends in any meetings you have with the agency or attorney if you so desire.
13. Receive, upon request, a written list of all promised support, financial or otherwise, from the agency or attorney. The kind of financial support that is provided for under the law is support associated with basic activities of daily living and related medical expenses for you and your child or children.

### BIRTH PARENTS WORKING WITH AN ILLINOIS ADOPTION AGENCY HAVE THE RIGHT TO:

1. Know about all of the things that are important regarding the placement of your child for adoption. For example, you can request after-placement communication with your child's adoptive family. However, after-placement adoption agreements, including those concerning contact and communication, are not enforceable by a court under Illinois law.
2. Receive a copy of the agency's description of its adoption services, policies and practices, including fees for adoptive parents. This includes the right to be informed of the range and scope of services, including:
  - a. Copies of the agency's current licenses and certifications;
  - b. The agency's philosophy and/or religious affiliation;
  - c. Any policy, requirements, eligibility criteria or situation that would affect an agency's placement of your child;

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- d. The right to receive a written description of after-placement services that will be available to you, your family, and the adoptive family and any costs for such services.
3. Receive a copy of the agency's annual report and a copy of the agency's written grievance/complaint policy.
4. Receive information about the Department of Children and Family Services ("DCFS") Adoption Information and Complaint Registry by accessing the DCFS website at: [www.state.il.us/dcfs/adoption/agencies/default.html](http://www.state.il.us/dcfs/adoption/agencies/default.html).
5. Ask for your own attorney at no cost to you. In some cases, the parties with whom you are working may be able to pay your legal expenses or provide you with an attorney. Having an attorney provided to you, or retained by you at your own expense is not required. If you do work with an attorney, you should ask if he or she has any financial, business or other relationship with the agency or adoptive parents. An attorney may not represent both you and the adoptive parents or the agency at the same time.

### **IN CASES IN WHICH ADOPTION AGENCIES ARE NOT INVOLVED, BIRTH PARENTS WHO ARE WORKING TOWARD PRIVATE ADOPTION, HAVE THE RIGHT TO:**

1. Verify the status of the attorney's license to practice law. In Illinois, you may access this information by calling the Illinois Attorney Registration and Disciplinary Commission at 1-800-826-8625 or accessing its website at [www.iardc.org](http://www.iardc.org). If the attorney is in another state, that state will have a comparable entity. Another resource is the American Academy of Adoption Attorneys website: [www.adoptionattorneys.org/](http://www.adoptionattorneys.org/) or telephone 202/832-2222.
2. Expect the attorney to have expertise in adoption law. Ask about the attorney's background and experience in adoption law.
3. Ask whether there is any conflict of interest that would affect the attorney's representation of you. An attorney should not represent both the birth parents and the adoptive parents at the same time.
4. Ask the attorney about the confidentiality of your private information that you disclose to your attorney. Unless you give permission for your private information to be disclosed, the attorney may not disclose it unless ordered to do so by the court.
5. Choose your own attorney. If you choose your own attorney, you have the right to be charged only those legal fees that are reasonable. You can consult with more than one lawyer before you decide to hire one and sign a retainer agreement.

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**Note: Illinois laws do not permit an attorney to be paid to provide adoption services.**

- Adoption services are defined as: arranging for the placement of a child, identifying a child for adoption, matching adoptive parents with biological parents, arranging or facilitating an adoption, taking or acknowledging consents or surrenders.
- Licensed attorneys may provide and charge for legal services related to the adoption. For example, fees may be charged to appear in court on your behalf or provide you with legal advice.

### IMPORTANT FACTS ABOUT FINAL AND IRREVOCABLE SURRENDERS AND CONSENTS TO ADOPTION IN ILLINOIS

**Birth Mothers:** Under Illinois law, the first point at which you may sign a Surrender or Consent to adoption is 72 hours after the birth of your baby.

- Once signed, a Surrender or Consent for adoption is final and irrevocable.
- Once the Surrender or Consent has been signed, you may not change your mind.
- You have the right to refuse to sign a Surrender or Consent for adoption (right up until the last moment before signing) if you have any hesitation or doubt about your decision to place your child for adoption.
- You can request more time to make your decision and you can request that the agency you are working with provide you with short-term temporary care of your child during your decision-making time. However, the agency is not required to provide this service to you.

**Birth mother's identification of birth father:** In order to have a secure adoption plan, it is in the best interests of the child for you to identify the baby's father. It is important to tell the truth about who the father is when a child is placed for adoption. Whether your child is being adopted in Illinois or another state, you have an obligation to identify the birth father of your child when you place a child for adoption.

- When you sign an Illinois surrender or consent to adoption, as a birth mother, you will also fill out an "Affidavit of Identification" that addresses the identity of your child's father as part of the adoption process. This affidavit is considered by the court to be a sworn statement. It will be provided to the court and is considered to be conclusive proof of a father's identity.
- Please correctly identify the father of the child unless you absolutely do not know his identity or believe you have good cause to fear for your physical safety.

Here are some reasons why it is so important:

- Perhaps most important of all – the child you place for adoption ought to know his or her biological and family history. Everyone deserves to know their family of origin if they so choose.
- Once you sign a final and irrevocable surrender or consent to adoption, your parental rights will be permanently terminated.

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- Before your child can be adopted, a diligent search will be conducted for the father. If he is found (he may have registered with the Illinois Putative Father Registry), the father of the child will have an opportunity to contest (object to) the adoption.
- If the birth father gets involved in the adoption by objecting to it, you, the birth mother, will have no ability to cancel your surrender/consent or to regain your parental rights.

**Birth Fathers:** If you are a birth father, you may sign a Surrender or Consent to Adoption before the child's birth, but you may change your mind (revoke it), if your revocation is documented within 72 hours after the child's birth. If you do change your mind, you must do so in writing and give the written statement to the person, agency or court that took the Surrender or Consent, before your child is 72 hours old. Once your child is 72 hours old, the Surrender or Consent is final and irrevocable. Once your child has been born, if you did not sign a Surrender prior to the birth, you must wait until the child is 72 hours old before signing one.

### PUTATIVE FATHER REGISTRY

A "putative father" is a man who may be a child's father, but who was not married to the child's mother before the child was born and has not established the fact that he is the father in a court proceeding. If the child's mother wants to place the child for adoption, the putative father must take steps to show that he is the legal father if he wants to object to the adoption.

If you think you are the father of a child and want a say in whether the child is adopted, you must register with the Illinois Putative Father Registry before the child is 30 days old. You may register before the baby is born. If you do not register with the Putative Father Registry before the 30-day deadline, the court may rule that you have waived your rights and permanently terminate your parental rights without notice to you. Your child may be permanently adopted without your consent.

For more information, see the website [www.putativefather.org](http://www.putativefather.org) or call the Illinois Putative Father Registry at 800-420-2574.

### BIRTH PARENT RESPONSIBILITIES

1. You have the responsibility to work cooperatively and honestly with the agency and/or attorney that handles the adoption.
2. If you have received financial assistance during your pregnancy from an agency or prospective adoptive parent, you are under no obligation to place your child for adoption. You and your family members are under no obligation to repay support received. However, you have the responsibility not to receive reimbursement or support for expenses simultaneously from more than one agency or attorney at a time.
3. You have the responsibility to provide the necessary documentation regarding financial need to make an appropriate determination of expenses and support.
4. Birth mothers must accurately complete an Affidavit of Identification which identifies the father of the child.
5. You have the responsibility to provide as much medical background and health history information on yourself and your immediate family as possible so that the adoptive family and your child will have this invaluable information.

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### REQUIREMENTS FOR LICENSED CHILD WELFARE AGENCIES THAT PROVIDE ADOPTION SERVICES

1. This document shall be utilized in all agency-assisted adoptions in Illinois, **except in cases in which there is a pending Juvenile Court case** relating to the child being placed for adoption.
2. This document shall be read aloud in its entirety to the birth parent(s) by an agency employee and provided to them in writing in their preferred language.
3. The birth parent(s) and a witness from the agency must initial each page.
4. Birth parents who are using the services of an adoption agency in Illinois must receive this document from her or his caseworker as soon as is reasonably practical after meeting with an agency worker. If desired, the birth parent may take this document home to review it in private before going over it with the agency worker.
5. After it is signed and dated, a copy of this document shall be provided to the birth parent/s, and the original maintained in the adoption agency's client file.

### RESOURCES

#### THE ILLINOIS DCFS LICENSED ADOPTION AGENCY WEBSITE

This website provides information on all the licensed adoption agencies in Illinois: [www.state.il.us/dcfs/adoption/agencies/default.html](http://www.state.il.us/dcfs/adoption/agencies/default.html). The "Summary of Illinois Licensed Adoption Agencies" documented on this website provides a basic overview of all agencies, including contact information regarding each agency's DCFS licensing representative.

#### THE ILLINOIS ADOPTION REGISTRY AND MEDICAL INFORMATION EXCHANGE

Your agency should provide you with information about the Adoption Registry, which provides a means by which registrants may authorize or prohibit the release of identifying information, including a copy of the adopted person's original birth certificate, to others involved in their surrender or adoption. Confidential facts may be released to registrants only after at least two specified parties to the adoption have each filed an explicit mutual consent for the exchange of this information.

Website: [www.idph.state.il.us/vitalrecords/adoptioninfo.htm](http://www.idph.state.il.us/vitalrecords/adoptioninfo.htm) or telephone 877-323-5299

#### THE ILLINOIS CONFIDENTIAL INTERMEDIARY PROGRAM

The DCFS Confidential Intermediary Program provides a way for adoptees, adoptive parents, birth parents and other birth relatives to connect. A Confidential Intermediary (CI), who is trained and certified by DCFS to provide this service, is appointed by the Court to locate the sought-after relative. When the relative is located, the CI explains the reason for the contact, describes the options available and helps facilitate a mutually agreeable outcome. The CI protects each person's privacy and confidentiality until/unless both decide to have direct contact. Website: [www.ci-illinois.org](http://www.ci-illinois.org) or telephone 847-298-9096

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### NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN (NACAC)

Website: [www.nacac.org/](http://www.nacac.org/)

970 Raymond Avenue, Suite 106

St. Paul, MN 55114

Telephone: 651-644-3036

### CHILD WELFARE INFORMATION GATEWAY

A division of the Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services website: [www.childwelfare.gov/](http://www.childwelfare.gov/)

### SIGNATURES:

#### Birth Parents:

_____	_____	_____
Birth Parent's Printed Name	Birth Parent's Signature	Date

_____	_____	_____
Birth Parent's Printed Name	Birth Parent's Signature	Date

_____	_____	_____
Witness's Printed Name	Witness's Signature	Date

#### Agency:

\_\_\_\_\_  
Printed Agency Name

_____	_____	_____
Authorized Representative's Printed Name	Authorized Representative's Signature	Date

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