
ADOPTION ACT

PROPOSED REVISION

**REPORT OF THE
ADVISORY COMMITTEE ON
ADOPTION LAW**



General Assembly of the Commonwealth of Pennsylvania
JOINT STATE GOVERNMENT COMMISSION
108 Finance Building
Harrisburg, Pennsylvania 17120
April 2001

The release of this report should not be interpreted as an endorsement by the members of the Executive Committee of the Joint State Government Commission of all the findings, recommendations and conclusions contained in this report.

**JOINT STATE GOVERNMENT COMMISSION
ROOM 108 FINANCE BUILDING
HARRISBURG, PA 17120-0018**

**717-787-4397
FAX 717-787-7020**

E-mail: JNTST02@LEGIS.STATE.PA.US

The Joint State Government Commission was created by the act of July 1, 1937 (P.L.2460, No.459) as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

JOINT STATE GOVERNMENT COMMISSION, 2001-2002

OFFICERS

Senator Roger A. Madigan, Chairman

Representative Jeffrey W. Coy, Treasurer

EXECUTIVE COMMITTEE

Senate Members

Robert C. Jubelirer
President Pro Tempore

David J. Brightbill
Majority Leader

Robert J. Mellow
Minority Leader

Jeffrey E. Piccola
Majority Whip

Michael A. O'Pake
Minority Whip

Noah W. Wenger
Chairman, Majority Caucus

Jack Wagner
Chairman, Minority Caucus

House Members

Matthew J. Ryan
Speaker

John M. Perzel
Majority Leader

H. William DeWeese
Minority Leader

Samuel H. Smith
Majority Whip

Michael R. Veon
Minority Whip

David G. Argall
Chairman, Majority Caucus

Mark B. Cohen
Chairman, Minority Caucus

Member Ex Officio

Senator Roger A. Madigan
Commission Chairman

David L. Hostetter
Executive Director

TASK FORCE ON ADOPTION LAW

Senate Members

Stewart J. Greenleaf, Chair

Robert J. Mellow

Jeffrey E. Piccola

Jack Wagner

House Members

Lita Indzel Cohen

Mark B. Cohen

Edward H. Krebs

Connie Williams

ADVISORY COMMITTEE ON ADOPTION LAW

Nancy Marcus Newman
Chair

James R. Adams

Sherry Anderson

Judge Max Baer

Martha L. Beamer

Denise M. Bierly

Craig B. Bluestein

Winona P. Boyd

Frank P. Cervone

Kay S. Eisenhour

Reverend Geneva A. Hackett

Cynthia Bertrand Holub

Diane E. Horsey

Christine Jacobs

Martha L. Jones

Lawrence A. Kalikow

Diane Katlic

JoAnn R. Lawer

Abigail Lovett

James E. Mahood

Marjorie McKeone

Judge Gilfert M. Mihalich

Suzanne Naples

Sheila Oliver

Elizabeth Omand

Cathleen Palm

Marlene Piasecki

Helen Blair Schuler

Judge Leonard B. Sokolove

Chuck Songer

Samuel C. Totaro, Jr.

Barbara Tremitiere

H. Woodruff Turner

Judy Vasalinda

Barbara Bennett Woodhouse



GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA
JOINT STATE GOVERNMENT COMMISSION
ROOM 108 - FINANCE BUILDING
HARRISBURG 17120

717-787-4397
FAX 717-787-7020

April 2001

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Joint State Government Commission is pleased to present the report of the Advisory Committee on Adoption Law. This report contains a proposed revision to Pennsylvania's adoption law with official comments.

The recommendations contained in this report represent the consensus of the advisory committee gained after three years of work under the leadership of Nancy Marcus Newman. On behalf of the General Assembly, I thank the members of the advisory committee for their valuable time and expertise and commend them for their accomplishment.

Sincerely yours,

A handwritten signature in black ink that reads "Roger A. Madigan".

Roger A. Madigan
Chairman

CONTENTS



Introduction 1

Summary of Recommendations..... 9

Proposed Legislation and Comments 15

Conforming Amendments171

Sample Voluntary Relinquishment Form183

Source Notes for the Sample Voluntary Relinquishment Form193

Detailed Table of Contents for the Proposed Adoption Act195

Duties of the Department of Public Welfare Under the
Proposed Adoption Act211

Flow Charts213

INTRODUCTION

This is the first report of the Joint State Government Commission Advisory Committee on Adoption Law. Senate Resolution No. 72 of 1995 (Pr.'s No. 1488) directed the Commission to establish a task force and advisory committee to undertake an ongoing study of adoption law and make recommendations to the General Assembly. The advisory committee, chaired by Nancy Marcus Newman of Montgomery County, consists of birth parents, adoptive parents, adult adoptees, child advocates, professionals in the adoption field, attorneys, judges, a court administrator, a professor and a representative from the Department of Public Welfare. The task force, chaired by Senator Stewart J. Greenleaf of Montgomery County, consists of four members of the Senate and four members of the House of Representatives. At its March 12, 2001 meeting, the task force authorized the transmittal of the advisory committee's report to the full General Assembly.

In order to accomplish its comprehensive review of present adoption law, the advisory committee was organized into the following four subcommittees: Placement and Costs (Craig B. Bluestein, Chair), Search and Information (Helen

Blair Schuler, Chair), Special Needs (Martha L. Jones, Chair) and Terminations (James R. Adams, Chair). In addition to reviewing the present Adoption Act, the advisory committee considered the Federal Adoption and Safe Families Act of 1997, the Model State Adoption Act which was developed under the authority of the Federal Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, the Uniform Adoption Act, case law, regulations, adoption literature and the statutes of other states.

The proposed Adoption Act contained in this report reflects the work of the four subcommittees. While the report represents the consensus of the advisory committee gained after numerous subcommittee meetings and twelve full advisory committee meetings, beginning in January 1998, it does not necessarily reflect unanimity on all points. A summary of the recommendations immediately follows this introduction. The following themes are evident throughout the proposed Adoption Act.

Providing for permanency and finality in adoptions

The proposed Adoption Act attempts to ensure that parents make an informed decision regarding the relinquishment of their parental rights and adoption of their child. This goal is advanced through a detailed framework for counseling (§ 2108), the use of a comprehensive voluntary relinquishment form (§ 2216), the establishment of a procedure for hearings on voluntary relinquishment to afford closure for a relinquishing parent (§ 2223), the distribution of a statutory notice explaining the rights and duties of birth parents (§ 2204) and the

establishment of a procedure either to provide notice to a parent or legal guardian of an individual under 18 years of age who is relinquishing a child (§ 2221) or to require a hearing for the individual (§ 2222). The proposed Adoption Act also attempts to ensure that adoptive parents make an informed decision regarding the adoption of a child, by distributing a statutory notice explaining their rights and duties (§ 2204) and requiring the disclosure of background information regarding the child prior to the adoption (Subchapter E of Chapter 23).

Another component to providing permanency and finality in adoptions is the need to reduce the possibility of disrupting the placement of the child. The proposed Adoption Act establishes a procedure to provide a man who may be the birth father of the child notice and an opportunity to be heard regarding the termination of his parental rights (§§ 2202 and 2203), limits the period during which an individual may revoke a voluntary relinquishment (§ 2218) and limits the period during which an adoption decree may be challenged (§ 2535).

Protecting the legal rights and best interests of the child in the adoption process

The proposed Adoption Act addresses representation for the child in a contested involuntary termination proceeding or an appeal of a final decree of termination of parental rights by providing for the mandatory appointment of a guardian ad litem for the child and the discretionary appointment of an attorney to represent the child (§ 2109). By definition, the guardian ad litem must be an attorney (§ 2103). Independent representation for the child is advanced by directing the counties to pay the costs associated with the appointment of the

attorney or guardian ad litem for the child, consequently relieving the adoptive parents of that financial obligation (§ 2109). The proposed Adoption Act also protects the legal rights of adopted children by preserving the duty to pay arrearages for child support (§ 2241) and maintaining vested rights and benefits (§ 2242). A statutory framework for agreements for continuing contact between children and their birth relatives (§ 2112) is also intended to advance the best interests of the child.

Expediting the process of termination of parental rights and adoption

The proposed Adoption Act establishes a procedure for the adoption of individuals who are 18 years of age or older (§ 2114), permits a voluntary relinquishment form to be notarized so that a final decree of termination of parental rights may be entered without the need for a hearing (§§ 2224 and 2216(c)), limits the period during which an individual may revoke a voluntary relinquishment (§ 2218), expands the grounds for involuntary termination (§ 2233) and provides that a petition for adoption initiates the adoption process, consequently eliminating the need for a report of intention to adopt and a report of an intermediary (Subchapter A of Chapter 25). In addition, the proposed Adoption Act permits the placement of a child in certain circumstances even when the home study process is not completed (§§ 2311 and 2312). The termination and adoption process may also be expedited by allowing a parent to designate an individual to adopt the child (§ 2213) and allowing any individual for good cause shown to file a petition for adoption if a parent whose parental

rights have not been terminated consents to the adoption and the other parent's parental rights have been terminated (§ 2501).

Encouraging timely and permanent placements for children with families suitable to meet their individual needs

The proposed Adoption Act expands the class of individuals who may file a petition for involuntary termination (§ 2231), permits foster parents in certain circumstances to file a petition for adoption (§ 2501), establishes a detailed home study process and postplacement evaluation process (Subchapters A, C and D of Chapter 23) and establishes a judicial review process regarding home studies (§ 2325).

Encouraging the adoption of children who are in the custody of a county agency and available for adoption and facilitating the transition of these children into adoptive homes

The proposed Adoption Act seeks to reduce the barriers which prevent equal access to appropriate adoption services. This goal is advanced by requiring the Department of Public Welfare to provide and pay for preadoption services and postadoption services for certain children (Subchapters B and C of Chapter 27).

Providing adoption assistance on behalf of children who meet certain eligibility requirements

The proposed Adoption Act recognizes that parents may need adoption assistance to create and foster a stable and permanent adoptive home. Therefore, it establishes a statutory framework for the applicability and provision of

maintenance payments, payments for nonrecurring adoption expenses, medical assistance and postadoption grants (Subchapters B and C of Chapter 28).

Providing for the filing, disclosure and retention of medical and social history information, while providing safeguards against the unauthorized disclosure of information

The proposed Adoption Act encourages and facilitates the exchange of medical and social history information (§ 2204, § 2215, Subchapter E of Chapter 23 and Subchapters C and D of Chapter 26). It establishes a registry for medical and social history information within the Department of Public Welfare (Subchapter C of Chapter 26) and requires that court and agency records be retained permanently (§ 2611). Certain individuals are permitted to file medical and social history information with the court (§ 2632) and to request that information from other individuals through the court (§ 2637). In addition, the proposed Adoption Act specifies who may request identifying information from a court or an agency and whose identifying information may be requested (§ 2641). A statutory framework is provided for the disclosure of identifying information (§ 2642) and for searches (Subchapter F of Chapter 26). With respect to the disclosure of identifying information, the proposed Adoption Act provides a structure concerning authorizations of disclosure and disclosure vetoes, depending on when the adoption was finalized (§ 2642). The Department of Health is required to disclose the information contained in an adoptee's original birth certificate upon the request of the adoptee, adoptive parent or legal guardian, depending on when the adoption was finalized (§ 2663).

Maintaining the integrity of the adoption process by regulating payments made in connection with placements and adoptions

The proposed Adoption Act provides a statutory framework governing prohibited and permissible payments (Chapter 24), consequently making Pennsylvania law more consistent with the laws of other states. It also addresses the issue of facilitators and directs that an individual or entity, other than an agency, may not receive, request or accept money or other valuable consideration for facilitating the placement of a child for adoption (§ 2401).

Providing for the effective administration of the proposed Adoption Act

The Department of Public Welfare is directed to establish a statewide data collection and reporting system for nonidentifying statistical information regarding adoptions (§ 2113), establish a registry regarding home studies (§ 2326), establish a registry for medical and social history information (Subchapter C of Chapter 26), reimburse county agencies for the cost of adoption assistance (§ 2803), submit reports (§§ 2113(c) and 2706), promulgate rules and regulations (§§ 2113(g), 2301(b), 2327, 2656, 2705 and 2804) and develop forms (§§ 2113(g), 2326(c), 2344 and 2623).

The proposed Adoption Act also provides that a decree of termination of parental rights terminates parental rights and duties (§ 2241) and the rights and duties of a child (§ 2243).

The proposed Adoption Act and the official comments of the advisory committee follow the Summary of Recommendations. Note that the proposed Adoption Act uses the modifier “birth” (as in the cases of birth mother and birth father, for example) instead of the modifier “natural.” Implementing legislation will repeal present 23 Pa.C.S. Part III (the Adoption Act) in its entirety and sections 771-774 of the act of June 13, 1967 (P.L.31, No.21) (the Adoption Opportunities Act, located at 62 P.S. §§ 771-774).

Following the proposed Adoption Act are conforming amendments, a sample voluntary relinquishment form with source notes, a detailed table of contents for the proposed Adoption Act, a list of duties of the Department of Public Welfare under the proposed Adoption Act, flow charts regarding voluntary relinquishments for birth mothers, birth fathers and putative fathers and flow charts regarding minimum time periods for voluntary relinquishments for birth mothers and birth fathers.

The official comments to the proposed Adoption Act may be used to determine the intent of the General Assembly. See 1 Pa.C.S. § 1939 and *In re Martin's Estate*, 365 Pa. 280, 74 A.2d 120 (1950).

SUMMARY OF RECOMMENDATIONS

The proposed Adoption Act contains the following recommendations:

- Repeal the present Adoption Act (23 Pa.C.S. Part III) in its entirety and propose a revised Adoption Act
- Extend the availability of counseling to any parent, presumptive father or putative father and provide a more detailed framework for counseling (§ 2108)
- Provide a more detailed framework for representation of children and parents, including the mandatory appointment of guardians ad litem for children and the discretionary appointment of attorneys to represent children in contested involuntary termination proceedings or appeals of a final decree of termination of parental rights (§ 2109)
- Direct counties to pay the costs of the appointment of guardians ad litem for children and attorneys to represent children (§ 2109)
- Provide a statutory framework for agreements for continuing contact between children and their birth relatives (§ 2112)
- Mandate the Department of Public Welfare to establish a statewide data collection and reporting system for nonidentifying statistical information regarding adoptions (§ 2113)
- Establish an expedited procedure for the adoption of individuals who are 18 years of age or older (§ 2114)
- Provide an improved mechanism to determine whether a man has filed a registration in which he claims to be the birth father of a child and provide notice to him of a hearing regarding the termination of parental rights with respect to the child (§ 2202)

- Establish a hearing procedure for putative fathers in certain circumstances (§ 2203)
- Provide a statutory notice of rights and duties of birth parents and adoptive parents (§ 2204)
- Encourage and facilitate the exchange of medical and social history information (§ 2204, § 2215, Subchapter E of Chapter 23 and Subchapters C and D of Chapter 26)
- Provide a comprehensive procedure for the voluntary relinquishment of parental rights (Subchapter B of Chapter 22)
- Permit parents to designate an individual to adopt their child and provide an implementing procedure (§ 2213)
- Provide a comprehensive voluntary relinquishment form (§ 2216)
- Provide that voluntary relinquishments by birth mothers are irrevocable 20 days after the execution of a voluntary relinquishment form (§ 2218), which is valid only if executed at least 72 hours after the birth of the child (§ 2214)
- Provide that voluntary relinquishments by birth fathers, presumptive fathers and putative fathers are irrevocable 20 days after the birth of the child or the execution of the voluntary relinquishment form, whichever occurs later (§ 2218)
- Establish a procedure for the revocation of a voluntary relinquishment (§ 2218)
- Clarify the effect of a voluntary relinquishment form executed outside this Commonwealth (§ 2219)
- Ensure that minor individuals are afforded the opportunity to make an informed decision regarding the voluntary relinquishment of their parental rights, by either providing notice to their parent or legal guardian (§ 2221) or requiring a hearing (§ 2222)
- Establish a procedure for hearings on voluntary relinquishment (§ 2223)
- Establish a procedure for hearings to confirm the identity of an individual who executes a voluntary relinquishment form and does not have it notarized (§ 2224)

- Provide an expedited method of voluntarily relinquishing parental rights by allowing a voluntary relinquishment form to be notarized (§§ 2224 and 2216(c))
- Clarify the procedure for the involuntary termination of parental rights (Subchapter C of Chapter 22)
- Expand the class of who may file a petition for involuntary termination to include certain foster parents and individuals who no longer have physical custody of the child or stand in loco parentis to the child (§ 2231)
- Expand the grounds for involuntary termination of parental rights (§ 2233)
- Provide that a decree of termination of parental rights terminates parental rights and duties, including the obligation of support, but does not extinguish the duty to pay arrearages for child support (§ 2241)
- Provide for the effect of a decree of termination of parental rights on vested rights and benefits (§ 2242) and rights and duties of a child (§ 2243)
- Provide a more detailed and uniform home study and post-placement evaluation process (Subchapters A, C and D of Chapter 23)
- Require FBI, criminal and child abuse checks on a prospective adoptive parent who is the stepparent of the child (§ 2306)
- Establish a procedure for placement of a child if the home study process is not completed (§§ 2311 and 2312)
- Establish a judicial review process for negative home study recommendations and adverse decisions in situations where a child was placed before the completion of the home study process (§ 2325)
- Establish within the Department of Public Welfare a registry regarding home studies (§ 2326)
- Require the disclosure of information regarding the child to the prospective adoptive parent prior to the adoption (Subchapter E of Chapter 23)
- Provide a statutory policy governing prohibited and permissible payments and activities (Chapter 24)

- Expand the specific expenses and costs which may be paid in connection with the placement and adoption process (§ 2402)
- Provide that a petition for adoption initiates the adoption process, thereby eliminating the need for the report of intention to adopt and the report of the intermediary (Subchapter A of Chapter 25)
- Establish a statutory list of who may file a petition for adoption (§ 2501)
- Permit foster parents in certain circumstances to file a petition for adoption (§ 2501)
- Permit any individual, for good cause shown, to file a petition for adoption if a parent whose parental rights have not been terminated consents to the adoption and the other parent's parental rights have been terminated (§ 2501)
- Provide that an adoption decree may not be challenged, except for lack of jurisdiction, after 30 days have elapsed from the entry of the adoption decree (§ 2535)
- Require that court and agency records be retained permanently (§ 2611)
- Establish a registry for medical and social history information within the Department of Public Welfare (Subchapter C of Chapter 26)
- Define the term "nonidentifying information" (§ 2103)
- Permit certain individuals to file medical and social history information with the court (§ 2632)
- Permit certain individuals to request medical and social history information from other individuals through the court (§ 2637)
- Expand who may request identifying information from a court or agency to include birth parents and certain birth relatives (§ 2641)
- Expand whose identifying information may be requested to include adoptees and certain birth relatives (§ 2641)
- Provide a statutory framework regarding the disclosure of identifying information (§ 2642)

- Provide that for adoptions finalized prior to the effective date of the act identifying information will be disclosed only if an authorization of disclosure is filed by the individual whose information is sought (§ 2642(a))
- Provide that for adoptions finalized on or after the effective date of the act identifying information regarding a birth parent will be disclosed upon request unless the birth parent files a disclosure veto (§ 2642(b))
- Provide that for adoptions finalized on or after the effective date of the act identifying information regarding adoptees and certain birth relatives will be disclosed only if an authorization of disclosure is filed by the individual whose information is sought and the birth parent has not filed a disclosure veto (§ 2642(a)(3))
- Provide that for adoptions finalized before the effective date of the act identifying information regarding a birth parent will be disclosed under certain circumstances if a search for the birth parent is unsuccessful, even though the birth parent has not filed an authorization of disclosure (§ 2643)
- Establish a statutory framework regarding searches for individuals (Subchapter F of Chapter 26)
- For adoption decrees entered on or after the effective date of this act, require the Department of Health to disclose the information contained in an adoptee's original birth certificate upon the request of the adoptee, adoptive parent or legal guardian (§ 2663)
- Require the Department of Public Welfare to provide and pay for pre-adoption services for children who are in the custody of a county agency and available for adoption (Subchapter B of Chapter 27)
- Require the Department of Public Welfare to provide and pay for post-adoption services for children who were in the custody of a county agency when they were adopted (Subchapter C of Chapter 27)
- Provide a statutory framework for adoption assistance (Chapter 28)
- Require the Department of Public Welfare to reimburse county agencies 100 percent of the cost of adoption assistance if the county agencies comply with data collection and reporting requirements (§ 2803)

- Establish a statutory framework for the applicability and provision of the four types of adoption assistance (Subchapter B of Chapter 28)
- Provide that maintenance payments, payments for nonrecurring adoption expenses and medical assistance apply to children who meet certain eligibility requirements and either are in the custody of an agency and available for adoption or were in the custody of an agency when they were adopted (§§ 2812, 2813 and 2814)
- Provide that postadoption grants apply to children who meet certain eligibility requirements, regardless of whether they were in the custody of an agency when they were adopted (§ 2815)
- Establish adoption assistance eligibility criteria for children (§ 2821)
- Provide that a child may not be denied adoption assistance because of the resources of the prospective adoptive parent or adoptive parent (§ 2821)
- Require that an adoption assistance agreement must be executed before adoption assistance is provided (§ 2822)
- Establish the requirements for an adoption assistance agreement (§ 2823)
- Provide for the transfer of benefits to successor adoptive parents (§ 2824)
- Specify when adoption assistance will be terminated (§ 2826)
- Provide for administrative appeals regarding adoption assistance (§ 2827)

PROPOSED LEGISLATION AND COMMENTS

DOMESTIC RELATIONS

Title 23

PART III

ADOPTION

Chapter

21. General Provisions
22. Termination of Parental Rights
23. Placement of Children
24. Prohibited and Permissible Payments and Activities
25. Adoption Proceedings
26. Records and Access to Information
27. Adoption Services
28. Adoption Assistance

CHAPTER 21

GENERAL PROVISIONS

Sec.

2101. Short title of part.
2102. Purpose.
2103. Definitions.
2104. Jurisdiction.
2105. Venue.
2106. Who may be adopted.
2107. Who may adopt.
2108. Counseling.
2109. Representation.

- 2110. Religious belief.
- 2111. Governing law.
- 2112. Agreement for continuing contact.
- 2113. Data collection and reporting.
- 2114. Adoption of individuals 18 years of age or older.

§ 2101. Short title of part.

This part shall be known and may be cited as the Adoption Act.

§ 2102. Purpose.

The purpose of this act is to ensure that in all aspects of adoption paramount consideration is given to serving the needs, welfare and best interests of the child.

§ 2103. Definitions.

The following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Adoptee.” An individual who has been adopted.

“Adoption.” The judicial act of creating the relationship of parent and child if it did not exist previously.

“Adoptive parent.” An individual who has adopted a child.

“Agency.” A public or private entity, including a county agency, which:

- (1) is licensed and regulated by the Department of Public Welfare;
- (2) provides adoption services; and
- (3) receives or provides for the care of children.

“County agency.” The county children and youth social service agency established under section 405 of the act of June 24, 1937 (P.L.2017, No. 396),

known as the County Institution District Law, or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

“Court.” The division of the court of common pleas which has jurisdiction over proceedings for termination of parental rights and adoption.

“Department.” The Department of Public Welfare of the Commonwealth.

“Guardian ad litem.” An attorney appointed by the court to serve and promote the needs, welfare and best interests of a child in a proceeding under this part.

“Identifying information.” Information which when released discloses the identity of an individual directly or indirectly through circumstantial inference.

“Medical history information.” Medical records and other information concerning an adoptee or an adoptee’s birth family which is relevant to the present or future health care or medical treatment of the adoptee or the adoptee’s birth family. The term includes, but is not limited to, the following:

(1) Otherwise confidential or privileged information, if identifying information has been removed under section 2627(b) (relating to providing information from registry).

(2) Information about the birth parents of a child which may concern a potential hereditary or congenital medical problem.

“Nonidentifying information.” Information which when released does not disclose the identity of an individual directly or indirectly through circumstantial inference. The term includes, but is not limited to, the following:

- (1) The date, time and location of the adoptee's birth.
- (2) The adoptee's weight and other physical characteristics at birth.
- (3) Where the birth parents of the adoptee were born.
- (4) The age of the birth parents when the adoptee was born.
- (5) The marital status of the birth parents when the adoptee was born.
- (6) The facts and circumstances relating to the nature and cause of the adoption.
- (7) The nationality, ethnic background, race, tribal affiliation and religious preference of the birth parents of the adoptee.
- (8) The educational level, course of study, general occupation, talents and hobbies of the birth parents of the adoptee.
- (9) A general physical description of the birth parents and other birth relatives of the adoptee, including height, weight, color of hair, color of eyes, complexion and other similar information.
- (10) Whether a birth parent of the adoptee had other children and, if so, available nonidentifying information about the children.
- (11) Information regarding the birth grandparents of the adoptee, including the reason for immigrating to the United States and country of origin.
- (12) The name of the agency involved in the adoption.
- (13) The length of time the adoptee was in the custody of an adoptive parent.

(14) Whether the adoptee was ever placed in foster care and, if so, the number of foster care placements, dates of each foster care placement and anything significant which occurred during each foster care placement.

(15) Available health history of the adoptee and birth relatives of the adoptee, including psychological and psychiatric information, which would be expected to have a substantial effect on the mental or physical health of the adoptee.

“Parent.” The term includes a birth parent and an adoptive parent of a child.

“Presumptive father.” A man, including one under 18 years of age, who:

- (1) is married to the birth mother when the child is born;
- (2) was married to the birth mother within 300 days prior to the date of birth of the child; or
- (3) has filed an acknowledgment of paternity under section 5103(a) (relating to acknowledgment and claim of paternity).

“Prospective adoptive parent.” An individual proposing to adopt a child.

“Putative father.” A man, including one under 18 years of age, who:

- (1) has filed a claim of paternity under section 5103(b) (relating to acknowledgment and claim of paternity);
- (2) has registered in another state with a registry for men who claim to be the father of a child;

(3) has filed an action to determine paternity under section 5104 (relating to blood tests to determine paternity) and who claims to be the father of the child;

(4) has filed an action for custody of the child under Chapter 53 (relating to custody) and who claims to be the father of the child;

(5) has paid or promised to pay support to the birth mother as a result of her pregnancy and the birth of the child and who claims to be the father of the child; or

(6) is identified as the birth father by the birth mother.

“Social history information.” The term includes, but is not limited to, the following:

(1) Information about the adoptee and birth relatives of the adoptee, including economic, cultural and ethnic information.

(2) A developmental history of the adoptee, including the circumstances at birth, early development and subsequent age-appropriate task development.

(3) The social experiences of the adoptee, including abuse and neglect, out-of-home care and patterns of interpersonal relationships.

(4) The educational experiences of the adoptee, including the name of schools attended and dates of enrollment, academic performance, extra-curricular activities and special interests.

(5) The current functioning of the adoptee, including behavioral patterns and relationships.

(6) The circumstances surrounding the adoption.

Comment: Former section 2102 defined the following terms: adoptee, agency, clerk, court, intermediary, medical history information, newborn child and parent. The definitions in section 2103 make both technical and substantive changes to the definitions of former section 2102. However, the Adoption Act eliminates the concept of intermediary and does not reference the term clerk. Consequently, the definitions of intermediary and clerk are eliminated. The definition of newborn child is also eliminated, and the substance of the term appears in section 2233(9). Section 2103 adds the following definitions: adoption, adoptive parent, county agency, department, guardian ad litem, identifying information, nonidentifying information, presumptive father, prospective adoptive parent, putative father and social history information.

A guardian ad litem appointed under this part must be an attorney. An attorney in the role of a guardian ad litem must serve and promote the needs, welfare and best interests of a child, rather than advocate for the stated preferences of a child. Former section 2905(b) covered nonidentifying information but did not define the term. The definition of parent is intended to include a man who has been determined by a court to be the birth father of the child. Under the definition of putative father, a man who satisfies any of the six listed conditions is considered a putative father and entitled to notice of a proceeding for termination of parental rights with respect to the child. An example of identification by the birth mother in paragraph (6) of the definition of putative father is her filing an action for child support against a man.

§ 2104. Jurisdiction.

The court of common pleas of each county shall exercise through the appropriate division original jurisdiction over termination of parental rights and adoption proceedings.

Comment: This section is based on former section 2301.

§ 2105. Venue.

Proceedings for termination of parental rights and adoption must be brought in the court of the county where:

- (1) the parent, child or prospective adoptive parent resides;
- (2) the agency having custody of the child is located;
- (3) the agency which placed the child is located; or
- (4) the child formerly resided, but only with leave of court.

Comment: This section is based on former section 2302.

§ 2106. Who may be adopted.

Any individual may be adopted, regardless of age or residence.

Comment: This section is based on former section 2311.

§ 2107. Who may adopt.

Any individual may become an adoptive parent.

Comment: This section is based on former section 2312.

§ 2108. Counseling.

(a) Purpose of counseling.--The purpose of counseling under this section is to address the risks, benefits and consequences of relinquishing parental rights with respect to a child, placing a child for adoption and alternatives to relinquishment and adoption.

(b) Right to counseling.--A parent, presumptive father and putative father have a right to receive at least one counseling session under this section, if the individual:

(1) is considering relinquishing parental rights with respect to a child or placing a child for adoption; or

(2) has relinquished parental rights with respect to a child or placed a child for adoption.

(c) Compilation of list.--Each county shall compile a list of qualified counselors and counseling service providers, including agencies, which are available within the county and surrounding area to provide counseling under this section.

(d) Distribution of list.--

(1) Each county shall provide the list compiled under subsection (c) to the following:

(i) Each agency within the county.

(ii) Each health care provider of obstetrical or maternity care within the county.

(iii) Any person upon request.

(2) Any agency or health care provider of obstetrical or maternity care that received the list compiled under subsection (c) shall provide the list to any individual it knows is considering relinquishing parental rights with respect to a child or placing a child for adoption.

(e) Notice of availability of list.--The department shall provide notice of the availability of the list compiled under subsection (c) to any man filing either an

acknowledgment of paternity or a claim of paternity under section 5103 (relating to acknowledgment and claim of paternity).

(f) Referral for counseling.--If an individual who has the right to counseling under this section decides to receive counseling, the individual shall contact the county for a referral authorizing counseling.

(g) Counseling fund.--Each county shall establish a separate fund to pay for counseling under this section. The source of the counseling fund shall be the fee collected under section 2504 (relating to fee for counseling fund). The county may make supplemental appropriations to the counseling fund.

(h) Additional counseling.--The county shall pay for more than one counseling session under this section if all the following apply:

(1) The person providing counseling under this section determines that additional counseling will benefit the individual receiving the counseling.

(2) The number of counseling sessions does not exceed ten.

(3) The individual receiving the counseling is unable to pay for the counseling or payment will result in substantial financial hardship for the individual.

(i) Designation by county.--Each county shall designate an agency within the county to implement the provisions of this section.

Comment: Former section 2505 provided for counseling for birth parents contemplating relinquishment or termination of parental rights. Unlike former section 2505, this section allows any parent, presumptive father or putative father to request counseling. This section requires the county, not the court, to compile the list and make a referral. Licensing requirements

provide specific criteria regarding what constitutes a qualified counselor or counseling service provider. This section does not require a signed acknowledgment of receipt of the list. An individual may receive up to ten subsidized counseling sessions. An example of an alternative to relinquishment and adoption under subsection (a) is retaining parental rights.

§ 2109. Representation.

(a) Child.--

(1) Subject to paragraph (2), the court may appoint a guardian ad litem or an attorney, or both, for the child in a proceeding under this part if the appointment serves the needs, welfare and best interests of the child.

(2) In an involuntary termination proceeding under Subchapter C of Chapter 22 (relating to involuntary termination of parental rights) if there is either a contest regarding the termination of parental rights or an appeal of a final decree of termination of parental rights:

- (i) the child shall be made a party to the proceeding;
- (ii) the court shall appoint a guardian ad litem for the child; and
- (iii) the court may appoint an attorney to represent the child.

(b) Parent.--In a proceeding under Chapter 22 (relating to termination of parental rights), the court shall appoint an attorney for a parent whose parental rights with respect to the child are subject to termination if:

- (1) the parent requests an attorney; and
- (2) the court determines that either the parent is unable to pay for an attorney or payment will result in substantial financial hardship for the parent.

(c) Payment of costs.--The court shall order the county in which the case is heard under this part to pay the costs of the appointment of a guardian ad litem and an attorney under this section.

(d) Conflict of interest.--An attorney or a law firm may not represent both a party and the child in a proceeding under this part.

Comment: The presence of a guardian ad litem for a child is generally beneficial to the proceedings in protecting the rights of the child. Therefore, subsection (a)(2) provides for the mandatory appointment of a guardian ad litem for a child in a contested involuntary termination proceeding and an appeal of a final termination decree. Making the child a party to the proceeding is intended to ensure that the guardian ad litem or attorney for the child may file an appeal on behalf of the child and continue to represent the child throughout the appeals process.

The first sentence of former section 2313(a) required the court to appoint an attorney to represent the child in an involuntary termination proceeding if the termination was contested by one or both of the parents. Subsection (a)(2) requires the court to appoint a guardian ad litem for the child in that particular instance. The court may, but is not required to, appoint an attorney to represent the child.

The second sentence of former section 2313(a) provided for the discretionary appointment of an attorney or a guardian ad litem for a child less than 18 years of age who was subject to a proceeding other than a contested involuntary termination proceeding, if the appointment was in the best interests of the child. Subsection (a)(1) does not have an age requirement and permits the appointment if it serves the needs, welfare and best interests of the child.

Former section 2313(a.1) required the court to appoint an attorney for a parent in an involuntary termination proceeding under certain circumstances. Subsection (b) also requires the appointment in a voluntary relinquishment proceeding.

Former section 2313(b) provided that the costs associated with the appointment of a guardian ad litem or an attorney would be paid by the county, adopting parents or apportioned to both. Because the county absorbs most of the costs associated with the appointment of a guardian ad litem or an attorney, new subsection (c) provides that only the county shall bear the costs. Consequently, all references to the payment by the adopting parents are eliminated. It is intended that the county must bear the costs through the appeals process as well.

The last sentence of former section 2313(a) provided that an attorney or a law firm may not represent both the child and an adopting parent. Subsection (d) expands former section 2313(a) to any party in a proceeding. Under the Rules of Professional Conduct, an attorney or a law firm should not represent both a prospective adoptive parent and a birth parent of the child, because of the inherent conflict of interest.

§ 2110. Religious belief.

An agency may honor the preference of a parent regarding the religious faith in which a prospective adoptive parent intends to raise the child. A person may not be denied the benefits of this part because of a religious belief.

Comment: This section is based on former section 2725, except that the second sentence does not limit religious belief to the use of spiritual means or prayer for healing.

§ 2111. Governing law.

(a) Interstate placement.--Except as otherwise provided in this part, if a child is brought into this Commonwealth from another state for the purpose of adoption or placement for adoption, the law of this Commonwealth governs.

(b) Intercountry placement.--Except as otherwise provided in this part and subject to any relevant Federal law and convention or treaty on intercountry adoption which the United States has ratified, if a child is brought into this

Commonwealth from another country for the purpose of adoption or placement for adoption, the law of this Commonwealth governs.

§ 2112. Agreement for continuing contact.

(a) Who may enter agreement.--A prospective adoptive parent, an adoptive parent or a legal guardian of the child may at any time enter into a written agreement with a birth parent or other birth relative of the child to permit continuing contact between the child and that birth parent or other birth relative.

(b) Filing of agreement.--An agreement under this section shall be filed with the court which finalized or will finalize the adoption of the child.

(c) Modification of agreement.--Only a prospective adoptive parent, an adoptive parent or a legal guardian of the child may seek to modify an agreement under this section.

(d) Enforcement of agreement.--

(1) If the child was 12 years of age or older when an agreement under this section was executed, the agreement is enforceable only if the child consented to the agreement at the time of its execution.

(2) A party to the agreement may seek to enforce the agreement by filing an action in the court in which the adoption was or will be finalized.

(3) A birth parent or another birth relative of the child who is a party to the agreement may request only specific performance in seeking to enforce the agreement. In such an enforcement action, a presumption shall favor the prospective adoptive parent, adoptive parent or legal guardian of the child.

The presumption may be overcome only by clear and convincing evidence that enforcement of the agreement serves the needs, welfare and best interests of the child.

(4) Before the court may enter an order enforcing the agreement, it must find all the following:

(i) The party seeking enforcement participated or attempted to participate in mediating the dispute in good faith before filing the enforcement action.

(ii) The party seeking enforcement is in compliance with the agreement.

(iii) Enforcement serves the needs, welfare and best interests of the child.

(e) Failure to comply.--Failure to comply with the terms of the agreement is not a ground for setting aside an adoption decree.

Comment: Under subsection (a), it is intended that if the other birth relative is a child, an individual with the authority to act on behalf of that child may enter into the written agreement. Under subsection (d)(3), the birth parent or other birth relative of the child may seek only to enforce the terms of the agreement and may not seek either monetary damages or modification of the agreement.

§ 2113. Data collection and reporting.

(a) Establishment of system.--The department shall establish a Statewide data collection and reporting system for nonidentifying statistical information regarding adoptions.

(b) Purpose of system.--The purpose of the system established under this section is to develop more reliable data on adoption practices and improve the analysis of trends and issues in adoption.

(c) Annual report.--

(1) Beginning one year after the effective date of this section and annually thereafter, the department shall submit to the General Assembly, the Governor and the Supreme Court Administrator's Office a report which includes the information received under this section and the following:

(i) The total number of children receiving adoption assistance under Chapter 28 (relating to adoption assistance).

(ii) The number of children receiving each type of adoption assistance.

(2) The department shall include in the report under paragraph (1) any analysis of the data or recommendation which it deems appropriate.

(d) Information from court.--Each court shall provide to the department the total number of adoptions finalized during the specified reporting period and the following information relating to each adoption:

(1) The child's date of birth, race and place of birth.

(2) The date of birth and race of the birth parents of the child, if known.

(3) The date of birth and race of the adoptive parents of the child.

(4) Whether the adoptive parent is a stepparent, foster parent or relative of the child and the relationship to the child, if any.

(5) Whether the birth parents of the child executed a voluntary relinquishment form or parental rights were terminated involuntarily and the date that parental rights with respect to the child were terminated.

(6) Whether the child was in the custody of an agency or in a private placement when the petition for adoption was filed.

(7) The length of time the child was in the custody of an agency or in a private placement before the petition for adoption was filed.

(8) The date the court entered the adoption decree.

(9) Whether the child was eligible for and received adoption assistance under Chapter 28 and what type of adoption assistance, if any.

(10) Any other information that the department requires.

(e) Cooperation by agency.--An agency shall cooperate to the fullest extent possible in providing the court information concerning adoptions that the court is required to provide to the department.

(f) Information from county agency.--Each county agency shall provide to the department information for the specified reporting period, including, but not limited to, the following:

(1) The number of children with the goal of adoption.

(2) The following information regarding each child with the goal of adoption:

(i) The length of time that the child has been waiting to be placed for adoption.

(ii) The length of time that the child has been in foster or other care.

(iii) Demographic information regarding the child, including age, race, gender and any characteristic of the child which is set forth in section 2821(a)(3) (relating to eligibility for adoption assistance).

(3) The number of children placed for adoption.

(4) Demographic information regarding each child placed for adoption, including age, race, gender and any characteristic of the child which is set forth in section 2821(a)(3).

(g) Rules and regulations.--The department shall promulgate rules and regulations necessary to implement this section, including, but not limited to, the establishment of specified reporting periods and the development of forms.

§ 2114. Adoption of individuals 18 years of age or older.

(a) Requirements for adoption.--If an individual petitions the court to adopt another individual who is 18 years of age or older, the court shall require only the following before it determines whether to grant the adoption:

(1) The consent of the individual proposed to be adopted.

(2) Any information under section 2502(a) (relating to contents of petition for adoption) required by the court.

(b) Procedures necessary for adoption.--The court shall determine which, if any, procedures under Chapter 25 (relating to adoption proceedings) must be followed for an adoption under this section.

CHAPTER 22

TERMINATION OF PARENTAL RIGHTS

Subchapter

- A. General Provisions
- B. Voluntary Relinquishment of Parental Rights
- C. Involuntary Termination of Parental Rights
- D. Effect of Decree of Termination of Parental Rights

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

- 2201. How to terminate parental rights.
- 2202. Search of registry for fathers.
- 2203. Hearing for putative father.
- 2204. Notice of rights and duties of birth parent and adoptive parent.
- 2205. When no right to notice of adoption proceeding.
- 2206. Authority of agency or individual receiving custody.
- 2207. Identity of prospective adoptive parent.

§ 2201. How to terminate parental rights.

Termination of parental rights may occur under Subchapter B (relating to voluntary relinquishment of parental rights) or Subchapter C (relating to involuntary termination of parental rights).

§ 2202. Search of registry for fathers.

(a) Determination and certification by Commonwealth.--Before the court may grant a final decree of termination of parental rights under this chapter, it shall be determined whether anyone has registered with respect to the child under section 5103 (relating to acknowledgment and claim of paternity). The department shall certify whether any such registration has occurred. The certification must occur as close to the hearing on the termination of parental rights as practicable.

(b) Determination and certification by another state.--

(1) A reasonable effort shall be made to determine whether anyone has registered with respect to the child with a registry in another state for men who claim to be the father of a child. A certification regarding whether any such registration has occurred shall be requested of the applicable department in each state contacted. If that department provides a certification, the certification shall be provided to the court. The certification must occur as close to the hearing on the termination of parental rights as practicable.

(2) Before the court may grant a final decree of termination of parental rights under this chapter, it must find that the requirements under paragraph (1) have been met.

(c) Notice.--If a registrant is found under subsection (a) or (b), he shall be given notice of the hearing under:

- (1) section 2203 (relating to hearing for putative father);
- (2) section 2223 (relating to hearing on voluntary relinquishment); or
- (3) section 2235 (relating to hearing on involuntary termination).

§ 2203. Hearing for putative father.

(a) When hearing required.--A hearing for a putative father of the child shall be held if:

(1) an individual has named a putative father of the child in a voluntary relinquishment form under Subchapter B (relating to voluntary relinquishment

of parental rights) but has not requested a hearing under section 2223 (relating to hearing on voluntary relinquishment); or

(2) a registrant is found under section 2202 (relating to search of registry for fathers) but has not been named in a voluntary relinquishment form under Subchapter B or a petition under Subchapter C (relating to involuntary termination of parental rights).

(b) Notice of hearing.--

(1) At least ten days' notice of the hearing under this section shall be given to a putative father of the child by personal service or registered mail to his last known address or by such other means as the court requires.

(2) The notice to the putative father must state substantially the following:

To: (insert name of putative father)

You are receiving this notice because you registered as a putative father with respect to (insert name of child) or have been named as a putative father in a petition for the purpose of terminating parental rights with respect to (insert name of child). The court has scheduled a hearing to determine whether to terminate your parental rights with respect to the child, to be held in (insert place, giving reference to the exact room and building number or designation) on (insert date) at (insert time). Your parental rights with respect to the child are subject to termination if you fail to appear at this hearing to object to the termination of your parental rights. You have the right to be represented at this hearing by an attorney.

You should take this document to your attorney at once. If you do not have an attorney or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

(Insert name)

(Insert address)

(Insert telephone number)

(3) The notice to the putative father must include the following:

(i) The list of rights and duties set forth in section 2204(a) (relating to notice of rights and duties of birth parent and adoptive parent).

(ii) Notice of the right to receive at least one counseling session, paid by the county, regarding the risks, benefits and consequences of relinquishing parental rights with respect to the child, placing the child for adoption and alternatives to relinquishment and adoption.

(c) Procedure for hearing.--

(1) The hearing under this section shall be private.

(2) If a putative father of the child attends the hearing and objects to the termination of his parental rights with respect to the child, the court shall:

(i) grant him standing to establish his paternity with respect to the child if that determination has not already occurred; and

(ii) hear his testimony and allow him to assert his claim to the child.

(3) If a putative father of the child does not attend the hearing to object to the termination of his parental rights with respect to the child, the court may terminate his parental rights with respect to the child.

(d) Court determination.--After the hearing under this section, the court shall make an appropriate order regarding the termination of parental rights and custody with respect to the child.

Comment: With respect to the phrase “such other means as the court requires” in subsection b)(1), see Rule 430 of the Pennsylvania Rules of Civil Procedure and its accompanying notes.

§ 2204. Notice of rights and duties of birth parent and adoptive parent.

(a) Contents of notice.--Notice of the rights and duties of a birth parent and an adoptive parent of a child must contain a list of statements in substantially the following language:

(1) A birth parent of an adoptee may at any time add medical history information or social history information to the court records for the benefit of the adoptee.

(2) A birth parent of an adoptee may at any time file and update medical history information and social history information with the registry established by the Department of Public Welfare by using a form developed by the department.

(3) A birth parent of an adoptee may ask the court to request medical history information or social history information relating to the adoptee.

(4) An adoptive parent of an adoptee may at any time add medical history information or social history information to the court records for the benefit of a birth parent of the adoptee.

(5) An adoptive parent of an adoptee may access medical history information and social history information filed by a birth parent of the adoptee with the registry established by the Department of Public Welfare.

(6) An adoptive parent of an adoptee may ask the court to request medical history information or social history information relating to a birth parent of the adoptee.

(7) A birth parent and an adoptive parent of an adoptee should provide a current address to the court to ensure receipt of medical history information or social history information from the court.

(8) The information on an adoptee's original certificate of birth, including information about a birth parent, will be given upon request to the adoptee or an adoptive parent of the adoptee.

(9) A birth parent's identifying information found in the court records or agency records will be given upon request to the adoptee or an adoptive parent of the adoptee unless that birth parent has filed a disclosure veto with the court or agency.

(b) Providing notice.--The notice of the rights and duties in subsection (a) must be attached to the following:

- (1) The notice under section 2203(b) (relating to hearing for putative father).
 - (2) The voluntary relinquishment form under section 2216 (relating to contents of voluntary relinquishment form).
 - (3) The notice under section 2223(b) (relating to hearing on voluntary relinquishment).
 - (4) The final decree of termination of parental rights under sections 2225 (relating to final decree of termination of parental rights) and 2237 (relating to final decree of termination of parental rights).
 - (5) The notice under section 2234(b) (relating to notice of hearing on involuntary termination).
 - (6) The petition for adoption under section 2502 (relating to contents of petition for adoption).
- (c) Providing medical and social history information form.--The form developed by the department under section 2623 (relating to development of form) shall accompany the notice under subsection (b)(1) through (5).

Comment: This section is intended to provide the birth parents and adoptive parents notice of their own rights and duties as well as those of the other set of parents. The notice is intended to be a general description of rights, without the specific name of the adoptee, birth parent or adoptive parent.

§ 2205. When no right to notice of adoption proceeding.

Except as provided in section 2213 (relating to designation of individual to adopt child), termination of parental rights of an individual with respect to a child,

by decree or other means, extinguishes the right of the individual to object to or receive notice of an adoption proceeding with respect to the child.

Comment: This section is based on former section 2521(a).

§ 2206. Authority of agency or individual receiving custody.

An agency or individual receiving custody of a child under this chapter has the same authority concerning the child as a birth parent of the child.

Comment: This section is intended to broaden the language of former section 2521(c) and enable an agency or individual receiving custody of a child to make the same decisions regarding the child as a birth parent of the child is able to make, without seeking court approval. Former section 2521(c) provided that an agency or person receiving custody stood in loco parentis to the child. The former section also provided examples of the authority of the agency or person, such as the ability to consent to marriage, enlistment in the armed services and major medical, psychiatric and surgical treatment.

§ 2207. Identity of prospective adoptive parent.

The court shall ensure through reasonably necessary means that the identity of a prospective adoptive parent of a child is not disclosed in connection with a proceeding under this chapter unless the prospective adoptive parent consents to the disclosure. The Supreme Court may prescribe uniform rules relating to confidentiality under this section.

Comment: This section is based on former section 2504.1.

SUBCHAPTER B

VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS

Sec.

2211. Petition for voluntary relinquishment.

2212. Ability to voluntarily relinquish parental rights.

- 2213. Designation of individual to adopt child.
- 2214. Execution of voluntary relinquishment form.
- 2215. Requirements when voluntary relinquishment form executed.
- 2216. Contents of voluntary relinquishment form.
- 2217. Validity of voluntary relinquishment.
- 2218. Revocation of voluntary relinquishment.
- 2219. Voluntary relinquishment form executed outside Commonwealth.
- 2220. Consents by others regarding relinquishment.
- 2221. Notice to parent or legal guardian of individual under 18 years of age.
- 2222. Hearing for individual under 18 years of age.
- 2223. Hearing on voluntary relinquishment.
- 2224. Hearing to confirm identity.
- 2225. Final decree of termination of parental rights.

§ 2211. Petition for voluntary relinquishment.

(a) Petition required.--For any voluntary relinquishment under this subchapter, a petition must be filed requesting that the parental rights of the individual who executed a voluntary relinquishment form be terminated with respect to a child.

(b) Attachments to petition.--The following must be attached to the petition for voluntary relinquishment:

(1) The executed voluntary relinquishment form under section 2216 (relating to contents of voluntary relinquishment form).

(2) The applicable consent under section 2220(b) or (c) (relating to consents by others regarding relinquishment).

(3) The request for a hearing under section 2222 (relating to hearing for individual under 18 years of age), if required.

(4) The request for a hearing under section 2223 (relating to hearing on voluntary relinquishment), if any.

(5) The request for a hearing under section 2224 (relating to hearing to confirm identity), if required.

(c) Birth father not identified in voluntary relinquishment form.--If the executed voluntary relinquishment form does not identify the birth father of the child, the petition under this section must state the reason that the birth father is not identified.

§ 2212. Ability to voluntarily relinquish parental rights.

A parent, presumptive father and putative father of a child may execute a voluntary relinquishment form under this subchapter to relinquish forever all parental rights and duties with respect to the child.

Comment: It is not intended that a parent, presumptive father or putative father may execute a voluntary relinquishment form solely for the purpose of avoiding parental duties with respect to the child, such as the obligation of support.

§ 2213. Designation of individual to adopt child.

(a) Designation on voluntary relinquishment form.--A parent executing a voluntary relinquishment form under section 2216 (relating to contents of voluntary relinquishment form) may designate an individual to adopt the child.

(b) Adoption not finalized.--If the child is not adopted by the individual designated in the voluntary relinquishment form:

(1) the agency or attorney coordinating the adoption shall give notice as set forth in subsection (c) to the parent who executed the voluntary relinquishment form; and

(2) the parent who executed the voluntary relinquishment form may file a petition to vacate both the voluntary relinquishment and the decree of termination of parental rights within ten days of service of the notice under subsection (c) with the court in which the petition for voluntary relinquishment of parental rights under section 2211 (relating to petition for voluntary relinquishment) was filed.

(c) Notice.--

(1) Notice under this section must state substantially the following:

To: (insert name of parent who executed the voluntary relinquishment form)

You executed a voluntary relinquishment form and designated (insert name of individual designated in the voluntary relinquishment form) to adopt (insert name of child). However, this adoption has not occurred. Therefore, you have the right to petition to vacate both your voluntary relinquishment and the decree of termination of parental rights within ten days of receiving this notice. The petition to vacate must be filed with (insert the court of the county in which the petition for voluntary relinquishment of parental rights was filed). If you do not file a timely petition to vacate, the child may be adopted by another individual without additional notice to you. You should take this document to your attorney at once. If you do not have an attorney or cannot afford one, go to or

telephone the office set forth below to find out where you can get legal help.

(Insert name)

(Insert address)

(Insert telephone number)

(2) The notice under paragraph (1) shall be given by personal service or registered mail to the last known address of the individual or by such other means as the court requires.

(d) Action by court.--

(1) If the court receives a timely petition to vacate under subsection (b)(2), it shall:

(i) vacate both the voluntary relinquishment and the decree of termination of parental rights;

(ii) restore parental rights and duties with respect to the child to the parent who executed the voluntary relinquishment form; and

(iii) enter an appropriate order regarding the custody of the child.

(2) If the court does not receive a timely petition to vacate under subsection (b)(2), the voluntary relinquishment has the same effect as a voluntary relinquishment in which an individual was not designated in the voluntary relinquishment form to adopt the child.

Comment: The amount of time that passes during the process under this section may not be used in establishing a ground for involuntary termination under section 2233(1) or (9). The phrase “if the child is not adopted by the individual

designated” in subsection (b) is intended to mean that the agency or attorney coordinating the adoption has actual knowledge that the designated individual cannot or will not adopt the child. If the designated individual receives a negative recommendation in a home study report or postplacement report and decides to appeal it, all available appeals must be exhausted before the notice under subsection (c) is given to the parent who executed the voluntary relinquishment form. If the court vacates the voluntary relinquishment and decree of termination under subsection (d)(1), the parent may execute a new voluntary relinquishment form designating another individual to adopt the child. With respect to the phrase “such other means as the court requires” in subsection (c)(2), see Rule 430 of the Pennsylvania Rules of Civil Procedure and its accompanying notes.

§ 2214. Execution of voluntary relinquishment form.

(a) General rule.--Subject to subsections (b) and (c), an individual may execute a voluntary relinquishment form with respect to a child if one of the following conditions is met:

(1) The child is in the care of another individual who is a parent of the child.

(2) The child is in the care of an agency.

(3) An agency has received written notice of the present intent to transfer custody of the child to the agency, without regard to whether the agency has physical custody of the child at the time that the voluntary relinquishment form is executed.

(4) The child is in the exclusive care of an individual who intends to adopt the child.

(b) Birth mother.--A voluntary relinquishment form executed by a birth mother is valid only if it is executed at least 72 hours after the birth of the child.

(c) Birth father, presumptive father and putative father.--A birth father, presumptive father or putative father may execute a voluntary relinquishment form at any time after receiving notice of the expected or actual birth of the child.

Comment: Subsection (a) is based on the concepts of former sections 2501(a) and 2502(a). There is no minimum length of time that the child must be in the care of either the agency or individual intending to adopt. Subsection (b) is based on the first sentence of former section 2711(c). Subsection (c) is based on the second sentence of former section 2711(c) and expanded to include a birth father and presumptive father.

§ 2215. Requirements when voluntary relinquishment form executed.

(a) Request for medical and social history information.--When the voluntary relinquishment form is presented to an individual for execution, the individual shall be asked to provide medical history information and social history information and given a form developed by the department under section 2623 (relating to development of form) on which to provide the information. Failure to request or provide medical history information and social history information does not invalidate the voluntary relinquishment.

(b) Copy of voluntary relinquishment form.--The agency or attorney coordinating the adoption shall provide a copy of the voluntary relinquishment form to the individual executing it when the form is sent or presented for execution. Failure to provide a copy of the voluntary relinquishment form to the individual executing the form renders the voluntary relinquishment invalid.

Comment: Under subsection (a), it is intended that if a voluntary relinquishment form is presented before the department has developed the form under section 2623, the form developed under former section 2909 shall be used.

§ 2216. Contents of voluntary relinquishment form.

(a) General information to be included.--A voluntary relinquishment form must include the following information:

(1) The name and address of the child, if known to the individual executing the form.

(2) The actual or expected date of birth of the child.

(3) The name and address of the birth parents and any presumptive father or putative father of the child, if known to the individual executing the form and if the parental rights of those individuals with respect to the child have not already been terminated.

(4) The name and address of the individual executing the voluntary relinquishment form.

(5) The relationship of the individual executing the voluntary relinquishment form to the child.

(6) The age and date of birth of the individual executing the voluntary relinquishment form.

(7) If the individual executing the voluntary relinquishment form is under 18 years of age:

(i) the name and address of a parent or legal guardian of the individual; or

(ii) a statement requesting a hearing under section 2222 (relating to hearing for individual under 18 years of age).

(8) A statement specifying which one of the conditions set forth in section 2214(a) (relating to execution of voluntary relinquishment form) has been satisfied.

(9) Verification by the individual executing the voluntary relinquishment form regarding any money or other valuable consideration received or to be received by the individual in connection with the placement and adoption of the child.

(10) The specific statements set forth in subsection (b).

(11) If applicable, the designation of an individual to adopt the child as provided in section 2213 (relating to designation of individual to adopt child).

(12) A statement specifying whether the individual executing the voluntary relinquishment form requests a hearing under section 2223 (relating to hearing on voluntary relinquishment).

(13) The signature of the individual executing the voluntary relinquishment form, following the statements set forth in subsection (b).

(14) The date and place that the individual executed the voluntary relinquishment form.

(15) The name, address and signature of at least two individuals who witnessed the execution of the voluntary relinquishment form, each of whom must be 18 years of age or older.

(16) The list of rights and duties set forth in section 2204(a) (relating to notice of rights and duties of birth parent and adoptive parent).

(17) A statement for the purpose of revoking the voluntary relinquishment which shall be substantially as follows and which shall follow the other information required by this section:

I revoke the foregoing voluntary relinquishment and do not wish to voluntarily relinquish my parental rights with respect to the child.

(Signature)

(Date)

(b) Specific statements to be included.--A voluntary relinquishment form must contain the following statements, in substantially the following form:

I hereby voluntarily consent to relinquish forever all my parental rights with respect to the child.

I am not under the influence of any alcohol, drug or controlled substance which may impair my ability to understand and execute this voluntary relinquishment form.

I understand that the child may be placed for adoption. If I am a parent of the child, I understand that I may designate an individual to adopt the child. If the child is not adopted by that individual, I understand that I will be given notice of that fact and my ability to file a petition to vacate both my voluntary relinquishment and the decree of termination of parental rights. I understand that I must file the petition within ten days of service of that notice with

(insert the court of the county in which the petition for voluntary relinquishment of parental rights was or will be filed). If I file a timely petition, I understand that the court will vacate both my voluntary relinquishment and the decree of termination of parental rights, restore my parental rights and duties and enter an order regarding the custody of the child. If I do not file a timely petition, I understand that the child may be adopted by another individual without additional notice to me.

I understand that I may place and update medical history information and social history information on a form developed by the Department of Public Welfare.

I understand that, if I am a birth parent of the child, I may file a disclosure veto with (insert the name and address of the agency coordinating the adoption) or (insert the court of the county in which the termination of parental rights will occur, if known). I understand that, unless I file a disclosure veto, my identity and other identifying information found in the court records or agency records will be given upon request to an adoptive parent of the child if the child is under 18 years of age or to the child if the child is 18 years of age or older.

I understand that the information on the original birth certificate of the child, including information about a birth parent, will be given upon request to an adoptive parent of the child if the child is under 18 years of age or to the child if the child is 18 years of age or older.

I understand that I have the right to receive at least one counseling session, paid by the county, regarding the risks, benefits and consequences of relinquishing my parental rights with respect to the child, placing the child for adoption and alternatives to relinquishment and adoption.

I confirm that at this time I do not wish to receive any counseling or any additional counseling regarding the risks, benefits and consequences of relinquishing my parental rights with respect to the child, placing the child for adoption and alternatives to relinquishment and adoption.

I understand that I may request a hearing on my voluntary relinquishment, during which time the court will review the contents of this voluntary relinquishment form with me. I understand that if I request a hearing on my voluntary relinquishment, I may revoke my voluntary relinquishment at any time prior to the entry of the final decree terminating my parental rights with respect to the child. I understand that the court may enter a final decree terminating my parental rights with respect to the child at the hearing, at which point my voluntary relinquishment may not be revoked. I further understand that, if I request a hearing but do not attend it, my voluntary relinquishment automatically becomes irrevocable at the time of the hearing, and the court may enter a final decree terminating my parental rights with respect to the child at that time.

If I do not request a hearing on my voluntary relinquishment and I am the birth mother of the child or an individual other than the birth father or a

presumptive father or putative father of the child, I understand that this voluntary relinquishment form is irrevocable unless I revoke it within 20 days after executing it by delivering a written revocation to (insert the name and address of the agency coordinating the adoption) or (insert the name and address of an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child) or (insert the court of the county in which the voluntary relinquishment form was or will be filed).

If I do not request a hearing on my voluntary relinquishment and I am the birth father or a presumptive father or putative father of the child, I understand that this voluntary relinquishment form is irrevocable unless I revoke it within 20 days after either the birth of the child or my execution of the voluntary relinquishment form, whichever occurs later, by delivering a written revocation to (insert the name and address of the agency coordinating the adoption) or (insert the name and address of an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child) or (insert the court of the county in which the voluntary relinquishment form was or will be filed).

If I do not request a hearing on my voluntary relinquishment, I understand that I will not receive further notice of any proceeding for termination of parental rights or adoption regarding the child, unless I designate an individual to adopt the child and the child is not adopted by the individual.

If I am under than 18 years of age, I understand that I must either provide the name and address of my parent or legal guardian or attend a hearing where the court will review the contents of this voluntary relinquishment form. If the hearing is necessary, I understand that the court will determine whether I understand the purpose of the voluntary relinquishment and the contents of this voluntary relinquishment form. At the hearing, I understand that the court will decide whether to allow the voluntary relinquishment process to continue. If I provide the name and address of my parent or legal guardian and do not request a hearing on my voluntary relinquishment, I understand that my parent or legal guardian will be given notice that I have signed this voluntary relinquishment form.

I have read or had explained to me this voluntary relinquishment form, and I understand the contents and purpose of this voluntary relinquishment form.

I understand that I may consult an attorney of my own choosing before I sign this voluntary relinquishment form. If I cannot afford an attorney, I understand that I may go to or telephone (insert name, address and telephone number of local legal services office).

I am signing this voluntary relinquishment form as a free and voluntary act.

I have received a copy of this voluntary relinquishment form.

The information that I have provided in this voluntary relinquishment form is true and correct to the best of my knowledge, information and belief. I understand that any false statement made in this voluntary relinquishment form is subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(c) Notarization option.--An executed voluntary relinquishment form may be notarized.

Comment: Subsection (a) is based on the first sentence of former section 2711(d)(1) and former section 2711(d)(2), except that the reference in the introductory language of former section 2711(d)(1) to “marital status of the parent” is eliminated. Subsection (b) is based on former section 2711(d)(1) and expanded. Counseling, as specified in this form, is not mandatory.

§ 2217. Validity of voluntary relinquishment.

A voluntary relinquishment is not invalid solely because the individual who executed the voluntary relinquishment form provided false or incomplete information in the form.

§ 2218. Revocation of voluntary relinquishment.

(a) General rule.--Except as otherwise provided in subsections (g) and (h):

(1) For a voluntary relinquishment form executed by a birth father, presumptive father or putative father, a voluntary relinquishment is irrevocable 20 days after the birth of the child or the execution of the voluntary relinquishment form, whichever occurs later.

(2) For a voluntary relinquishment form executed by a birth mother or an individual other than a birth father, presumptive father or putative father, a voluntary relinquishment is irrevocable 20 days after the execution of the voluntary relinquishment form.

(b) Waiver of revocation period prohibited.--An individual may not waive the 20-day revocation period under subsection (a).

(c) How to revoke voluntary relinquishment.--An individual who executed a voluntary relinquishment form may revoke the voluntary relinquishment by executing and dating either of the following:

(1) The statement set forth in section 2216(a)(17) (relating to contents of voluntary relinquishment form).

(2) A separate revocation which may include the following information:

(i) The date and place that the voluntary relinquishment form was executed.

(ii) The name, gender, date of birth and place of birth of the child, if known.

(iii) The name and age of the individual who is revoking the voluntary relinquishment, along with the relationship of the individual to the child.

(iv) A statement that the individual revokes the voluntary relinquishment.

(d) Where to deliver revocation.--A revocation of the voluntary relinquishment is valid when delivered to and received by any of the following during the 20-day revocation period under subsection (a):

(1) The agency or attorney coordinating the adoption.

(2) An attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child.

(3) The court of the county in which the voluntary relinquishment form was or will be filed.

(e) Need to file revocation with court.--A person listed in subsection (d) that receives a revocation of a voluntary relinquishment shall promptly file the revocation with the court of the county in which the voluntary relinquishment form was filed.

(f) Fraud or duress.--

(1) Notwithstanding subsection (a), an individual who executed a voluntary relinquishment form may challenge the validity of the voluntary relinquishment only by filing a petition alleging fraud or duress within the earlier of the following time frames:

(i) Sixty days after the birth of the child or the execution of the voluntary relinquishment form, whichever occurs later.

(ii) Thirty days after the entry of the adoption decree.

(2) A voluntary relinquishment may be invalidated only if the alleged fraud or duress under paragraph (1) is proven by clear and convincing evidence.

(g) Revocation if hearing on voluntary relinquishment requested.--

(1) Except as provided in paragraph (2), an individual who executed a voluntary relinquishment form and requested a hearing under section 2223 (relating to hearing on voluntary relinquishment) may revoke the voluntary relinquishment at any time prior to the entry of the final decree terminating parental rights of the individual with respect to the child.

(2) If an individual who executed a voluntary relinquishment form and requested a hearing under section 2223 does not attend the hearing, the voluntary relinquishment becomes irrevocable at the time of the hearing.

(h) Revocation if hearing requested for individual under 18 years of age.--If a hearing has occurred under section 2222 (relating to hearing for individual under 18 years of age), the voluntary relinquishment is irrevocable 20 days after the hearing.

Comment: The phrase “an individual other than a birth father, presumptive father or putative father” in subsection (a)(2) is intended to include an adoptive parent who is relinquishing parental rights to a child. Unlike former section 2711(c), this section establishes specific time periods during which a voluntary relinquishment may be revoked.

§ 2219. Voluntary relinquishment form executed outside Commonwealth.

(a) General rule.--Subject to subsection (b), the validity, enforceability, construction and revocability of a voluntary relinquishment form or similar

document executed outside this Commonwealth shall be determined by the law of the jurisdiction for which the document was developed.

(b) Irrevocability.--A voluntary relinquishment form or similar document developed in another jurisdiction is irrevocable if irrevocable under the law of either that jurisdiction or this Commonwealth and shall be considered a valid voluntary relinquishment form for the purposes of this chapter.

§ 2220. Consents by others regarding relinquishment.

(a) Parent or legal guardian of individual under 18 years of age.--If an individual executing a voluntary relinquishment form is under 18 years of age, the court may not require a parent or legal guardian of the individual to consent to the relinquishment under this subchapter.

(b) Agency.--The court shall require the written consent of the agency to whom the child is relinquished to accept custody of the child until the child is adopted.

(c) Individual intending to adopt child.--The court shall require the written consent of the individual intending to adopt the child to accept custody of the child until the child is adopted.

Comment: Subsection (a) is based on the first sentence of former sections 2501(b) and 2502(b). Subsection (b) is based on the second sentence of former section 2501(b). Subsection (c) is based on the second sentence of former section 2502(b).

§ 2221. Notice to parent or legal guardian of individual under 18 years of age.

(a) Applicability.--This section applies only if the individual who executed a voluntary relinquishment form is under 18 years of age and provided the name

and address of the individual's parent or legal guardian but did not request a hearing under section 2223 (relating to hearing on voluntary relinquishment).

(b) Notice.--A parent or legal guardian of the individual who executed a voluntary relinquishment form shall be given notice of the execution of the form within three business days of the filing of the petition for voluntary relinquishment of parental rights under section 2211 (relating to petition for voluntary relinquishment). The notice must state that the parental rights of the individual under 18 years of age are subject to termination.

§ 2222. Hearing for individual under 18 years of age.

(a) Applicability.--This section applies only if the individual who executed the voluntary relinquishment form is under 18 years of age and did not provide the name and address of the individual's parent or legal guardian.

(b) Expedited hearing.--

(1) Subject to paragraph (2), an expedited hearing under this section shall be held within three business days of the filing of the petition for voluntary relinquishment of parental rights under section 2211 (relating to petition for voluntary relinquishment).

(2) An expedited hearing under this section for a birth father, presumptive father and putative father may not be held until after the birth of the child.

(c) Procedure for hearing.--

(1) A hearing under this section must be private.

(2) The court shall review the contents of the executed voluntary relinquishment form with the individual who executed it and determine whether the individual understands the purpose of the voluntary relinquishment and contents of the voluntary relinquishment form.

(d) Court determination.--

(1) If the court determines that the individual who executed the voluntary relinquishment form understands the purpose of the voluntary relinquishment and contents of the form, the court shall allow the voluntary relinquishment process to continue.

(2) If the court determines that the individual does not understand the purpose of the voluntary relinquishment and contents of the voluntary relinquishment form, the court shall determine whether termination of parental rights will serve the needs, welfare and best interests of the individual. At the conclusion of the hearing, the court shall either allow the voluntary relinquishment process to continue or dismiss the petition for voluntary relinquishment of parental rights.

§ 2223. Hearing on voluntary relinquishment.

(a) Request for hearing.--An individual executing a voluntary relinquishment form may request a hearing on the voluntary relinquishment at the appropriate place on the form.

(b) Timing of hearing.--

(1) Subject to paragraph (2), a hearing on the voluntary relinquishment shall be held within 30 days of the date of the hearing request.

(2) A hearing on the voluntary relinquishment for a birth father, presumptive father and putative father may not be held until after the birth of the child.

(c) Notice of hearing.--

(1) At least ten days' notice of the hearing on voluntary relinquishment shall be given to the following:

(i) The individual who executed the voluntary relinquishment form and requested the hearing.

(ii) A parent of the child if the parent's parental rights with respect to the child have not already been terminated.

(iii) A presumptive father whose parental rights with respect to the child have not already been terminated.

(iv) A putative father whose parental rights with respect to the child have not already been terminated.

(v) If the individual who executed the voluntary relinquishment form is under 18 years of age, the individual's parent or legal guardian.

(vi) The agency to whom the child is relinquished.

(2) Notice of the hearing on voluntary relinquishment shall be given by personal service or registered mail to the last known address of the individual or by such other means as the court requires.

(3) The notice to the petitioner must state substantially the following:

To: (insert name of individual who executed the voluntary relinquishment form)

You executed a voluntary relinquishment form for the purpose of relinquishing forever your parental rights with respect to (insert name of child). The court has scheduled a hearing to review the contents of the voluntary relinquishment form, to be held in (insert place, giving reference to the exact room and building number or designation) on (insert date) at (insert time). If you do not attend the hearing, you will not be able to revoke the voluntary relinquishment at a later time. You have the right to be represented at the hearing by an attorney. You should take this document to your attorney at once. If you do not have an attorney or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

(Insert name)

(Insert address)

(Insert telephone number)

(4) A copy of the notice set forth in paragraph (3) shall be given to the other persons set forth in paragraph (1) and must include the following:

(i) A copy of the executed voluntary relinquishment form.

(ii) The list of rights and duties set forth in section 2204(a) (relating to notice of rights and duties of birth parent and adoptive parent).

(iii) Notice that a parent has the right to receive at least one counseling session, paid by the county, regarding the risks, benefits and consequences of relinquishing parental rights with respect to the child, placing the child for adoption and alternatives to relinquishment and adoption.

(5) The notice to the putative father must state that his parental rights with respect to the child are subject to termination if he fails to appear at the hearing to object to the termination of his parental rights.

(d) Procedure for hearing.--

(1) A hearing on voluntary relinquishment must be private.

(2) The court shall review the contents of the executed voluntary relinquishment form with the individual who executed the form.

(3) If a man claiming to be the birth father of the child attends the hearing and objects to the termination of his parental rights with respect to the child, the court shall:

(i) grant him standing to establish his paternity with respect to the child, if that determination has not already occurred; and

(ii) hear his testimony and allow him to assert his claim to the child.

Comment: Subsection (c) is based on former section 2503. It is intended that an attorney may appear at the hearing on voluntary relinquishment on behalf of the agency or any individual listed in subsection (c)(1). With respect to the phrase “such other means as the court requires” in subsection (c)(2), see Rule 430 of the Pennsylvania Rules of Civil Procedure and its accompanying notes. Subsection (d)(3) is designed to protect the man who does not fall within the strict

definition of putative father but who attends the hearing to assert his claim to the child.

§ 2224. Hearing to confirm identity.

(a) Applicability.--This section applies only if all the following conditions are met:

(1) The executed voluntary relinquishment form under section 2216 (relating to contents of voluntary relinquishment form) is not notarized.

(2) The individual who executed the voluntary relinquishment form does not request a hearing under section 2223 (relating to hearing on voluntary relinquishment).

(3) Section 2222 (relating to hearing for individual under 18 years of age) is not applicable.

(b) Hearing.--

(1) A hearing shall be held to confirm the identity of the individual who allegedly executed the voluntary relinquishment form.

(2) At least ten days' notice of the hearing under this subsection shall be given to the individual who allegedly executed the voluntary relinquishment form by personal service or registered mail to the last known address of the individual or by such other means as the court requires.

(3) The notice of the hearing under this subsection must state substantially the following:

To: (insert name of individual who allegedly executed the voluntary relinquishment form)

The court has scheduled a hearing for the sole purpose of confirming your identity as the individual who executed the voluntary relinquishment form with respect to (insert name of child). The hearing shall be held in (insert place, giving reference to the exact room and building number or designation) on (insert date) at (insert time). If you did not sign the voluntary relinquishment form, you should appear at the hearing to establish that you did not sign it. You may not have the opportunity to assert later that you did not sign the voluntary relinquishment form. The court may enter a final decree terminating your parental rights with respect to the child at the time of the hearing. You have the right to be represented at the hearing by an attorney. You should take this document to your attorney at once. If you do not have an attorney or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

(Insert name)

(Insert address)

(Insert telephone number)

(4) A hearing under this subsection must be private.

(5) The sole purpose of a hearing under this subsection is to determine whether the individual who allegedly executed the voluntary relinquishment form did in fact execute the voluntary relinquishment form.

Comment: The purpose of this section is to confirm the identity of the individual who executed the voluntary relinquishment form. Notarization of the form or a hearing held under sections 2222 or 2223 also accomplishes this

purpose. Notarizing the voluntary relinquishment form should facilitate the voluntary relinquishment process. Without the notarization, the court must take testimony regarding the execution of the voluntary relinquishment form. Under subsection (b)(2), only the individual allegedly executing the voluntary relinquishment form receives notice of the hearing. With respect to the phrase “such other means as the court requires” in subsection (b)(2), see Rule 430 of the Pennsylvania Rules of Civil Procedure and its accompanying notes.

§ 2225. Final decree of termination of parental rights.

(a) When final decree may be entered.--The court may enter a final decree terminating the parental rights of an individual with respect to a child based on the petition filed under section 2211 (relating to petition for voluntary relinquishment) after any of the following:

(1) A hearing under section 2203 (relating to hearing for putative father) or 2223 (relating to hearing on voluntary relinquishment).

(2) A hearing under section 2222 (relating to hearing for individual under 18 years of age) or 2224(b) (relating to hearing to confirm identity), subject to the revocation periods under section 2218(a) (relating to revocation of voluntary relinquishment).

(3) The revocation periods under section 2218(a) have passed, if the executed voluntary relinquishment form is notarized and sections 2222 and 2223 are not applicable.

(b) Putative father.--The court may terminate the parental rights of a putative father of the child if he fails to appear at the hearing on voluntary relinquishment under section 2223 to object to the termination of his parental rights.

(c) Award of custody.--The final decree of termination of parental rights shall award custody of the child to the agency or individual consenting to accept custody under section 2220 (relating to consents by others regarding relinquishment).

Comment: Subsection (c) is based on former section 2521(b).

SUBCHAPTER C

INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

Sec.

2231. Who may file petition for involuntary termination.

2232. Contents of petition for involuntary termination.

2233. Grounds for involuntary termination.

2234. Notice of hearing on involuntary termination.

2235. Hearing on involuntary termination.

2236. Court determination.

2237. Final decree of termination of parental rights.

§ 2231. Who may file petition for involuntary termination.

A petition for the involuntary termination of parental rights with respect to the child may be filed by any of the following:

(1) A parent if termination is sought against the other parent.

(2) An agency.

(3) If the child has not been adjudicated dependent under 42 Pa.C.S. § 6341(c) (relating to adjudication), an individual with whom the parent directly or indirectly placed the child and who:

(i) has legal custody of the child or stands in loco parentis to the child;

or

(ii) for at least six consecutive months within the eight months preceding the filing of the petition to terminate parental rights, had physical custody of the child or stood in loco parentis to the child.

(4) If the child has been adjudicated dependent under 42 Pa.C.S. § 6341(c) and in foster care placement for at least 15 of the last 22 months, the child's foster parent or other foster care provider who:

(i) has physical custody of the child; or

(ii) for at least six consecutive months within the eight months preceding the filing of the petition to terminate parental rights, had physical custody of the child.

(5) If the child has been adjudicated dependent under 42 Pa.C.S. § 6341(c), an attorney representing the child or a guardian ad litem for the child.

Comment: Paragraphs (1), (2) and (5) are based on former section 2512(a)(1), (2) and (4). Former section 2512(a)(3) provided that an individual having custody or standing in loco parentis to a child could file a petition to terminate if the individual also filed a report of intention to adopt. Under the new Adoption Act, the concept of a report of intention to adopt is eliminated. In addition, under former section 2512(a), an individual could only file a petition when the individual has custody or stands in loco parentis to a child. Paragraph (3)(ii) permits the individual to file a petition if the individual for at least six consecutive months within the eight months preceding the filing had physical custody or stood in loco parentis to the child. Paragraph (4) permits a foster parent to file a petition under certain circumstances.

§ 2232. Contents of petition for involuntary termination.

(a) General rule.--A petition filed under this subchapter must include the following:

- (1) The name and address of the petitioner.
- (2) The name and address of the child.
- (3) The relationship between the petitioner and child.
- (4) The name and address of the individual whose parental rights with respect to the child are subject to termination.
- (5) The name and address of a parent of the child, if the parental rights of the parent with respect to the child have not already been terminated.
- (6) The name and address of a presumptive father of the child, if known to the petitioner and if the parental rights of the presumptive father with respect to the child have not already been terminated.
- (7) The name and address of a putative father of the child, if known to the petitioner and if the parental rights of the putative father with respect to the child have not already been terminated.
- (8) The name and address of a parent or legal guardian of a parent under 18 years of age whose parental rights with respect to the child are subject to termination.
- (9) If the petition does not identify the birth father of the child and the parental rights of the birth father with respect to the child have not already been terminated, a statement of the reason that the birth father is not identified.
- (10) The specific grounds alleged for termination of parental rights as set forth in section 2233 (relating to grounds for involuntary termination).

(11) The facts alleged as the basis for the termination of parental rights.

(12) Subject to section 2207 (relating to identity of prospective adoptive parent), the name and address of the individual or agency who will assume custody of the child until the child is adopted.

(b) Agency as petitioner.--If the petitioner is an agency, the agency is not required to state that an adoption is presently contemplated or an individual with a present intention to adopt the child exists.

Comment: Former section 2512(b) required a petitioner to assume custody of the child until the child is adopted.

§ 2233. Grounds for involuntary termination.

The involuntary termination of parental rights may be based on one or more of the following grounds:

(1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental rights with respect to the child or has refused or failed to perform parental duties. The amount of time that passes during the process under section 2213 (relating to designation of individual to adopt child) may not be used in establishing the ground under this paragraph.

(2) The child is without essential parental care, control or subsistence because of any of the following:

(i) The repeated and continued abuse or neglect of the child by the parent.

(ii) The refusal of the parent to care for the child.

(iii) The incapacity of the parent, which cannot or will not be remedied by the parent within a reasonable period of time.

(3) The parent has engaged in repeated and continued abuse or neglect of the child's sibling or another child in the child's household.

(4) The child, the child's sibling or another child in the child's household has been the victim of any of the following:

(i) Physical abuse by the parent resulting in serious bodily injury, defined as bodily injury which creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(ii) Sexual violence by the parent, defined as any of the following:

(A) Rape, as defined in 18 Pa.C.S. § 3121(a) (relating to rape).

(B) Indecent contact, as defined in 18 Pa.C.S. § 3101 (relating to definitions).

(C) Incest, as provided in 18 Pa.C.S. § 4302 (relating to incest).

(D) Using, causing, permitting, persuading or coercing the child to engage in a prohibited sexual act as defined in 18 Pa.C.S. § 6312(a) (relating to sexual abuse of children) or a simulation of a prohibited sexual act for the purpose of photographing, videotaping, depicting on computer or filming involving the child.

(iii) Aggravated physical neglect by the parent, defined as any omission in the care of the child which results in a life-threatening condition or seriously impairs the child's functioning.

(5) The parent has been convicted of any of the following offenses if the victim was a child:

(i) Criminal homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

(ii) Aggravated assault under 18 Pa.C.S. § 2702 (relating to aggravated assault).

(iii) Rape under 18 Pa.C.S. § 3121.

(iv) Statutory sexual assault under 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(v) Involuntary deviate sexual intercourse under 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(vi) Sexual assault under 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(vii) Aggravated indecent assault under 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(viii) Indecent assault under 18 Pa.C.S. § 3126 (relating to indecent assault).

(ix) An offense in another jurisdiction equivalent to an offense set forth in subparagraphs (i) through (viii).

(6) The parent is the presumptive father but not the birth father of the child.

(7) The child was abandoned and is in the custody of an agency, the identity or whereabouts of the parent is unknown and cannot be ascertained by a diligent search and the parent does not claim the child within three months after the child is found.

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, and all the following apply:

(i) The conditions which led to the removal or placement of the child continue to exist.

(ii) The parent cannot or will not remedy those conditions within a reasonable period of time.

(iii) The services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time.

(9) The child is six months of age or younger when a petition under this subchapter is filed and the parent:

(i) knows or has reason to know of the child's birth;

(ii) does not reside with the child; and

(iii) for a period of at least two months immediately preceding the filing of the petition, has failed to make reasonable efforts to:

(A) maintain substantial and continuing contact with the child; and

(B) provide substantial financial support for the child.

The amount of time that passes during the process under section 2213 may not be used in establishing the ground under this paragraph.

(10) The parent is the perpetrator of rape, sexual assault or incest, the result of which was the conception of the child.

(11) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement of the child and the conditions which led to the removal or placement continue to exist.

(12) For a period of at least 15 of the previous 22 months, the child has been and is currently removed from the care of the parent by the court or under a voluntary agreement with an agency.

Comment: Paragraph (1) is based on former section 2511(a)(1). Paragraph (2) is based in part on former section 2511(a)(2). The court may consider any negative impact on parenting abilities caused by incapacity or abuse. Paragraphs (3) and (4) are intended to include the child's full-blood siblings, half-blood siblings, step-siblings and adoptive siblings. Paragraphs (4) and (5) are based on 42 Pa.C.S. § 6302, regarding aggravated circumstances under the Juvenile Act. Paragraph (6) is based on former section 2511(a)(3). Paragraph (7) is based on former section 2511(a)(4). Paragraph (8) is based on former section 2511(a)(5). Paragraph (9) is based on former section 2511(a)(6), except that the time frame is reduced from four months to two months. In addition, the reference to the marriage of the one parent to the other is eliminated. It is intended that this paragraph applies to both birth mothers and birth fathers. Paragraph (10) is based on former section 2511(a)(7), except

that sexual assault is added and it applies to both a mother and father. Paragraph (11) is based on former section 2511(a)(8).

§ 2234. Notice of hearing on involuntary termination.

(a) Scheduling.--A hearing shall be scheduled on the petition for the involuntary termination of parental rights.

(b) Notice of hearing.--

(1) At least ten days' notice of the hearing on the petition shall be given to the following:

(i) The petitioner.

(ii) The individual whose parental rights with respect to the child are subject to termination.

(iii) A parent of the child, if the parental rights of the parent with respect to the child have not already been terminated.

(iv) A presumptive father of the child, if his parental rights with respect to the child have not already been terminated.

(v) A putative father of the child, if his parental rights with respect to the child have not already been terminated.

(vi) A parent or legal guardian of a parent under 18 years of age whose parental rights with respect to the child are subject to termination.

(2) Notice shall be given by personal service or registered mail to the last known address of the individual or by such other means as the court requires.

(3) The notice to the individual set forth in paragraph (1)(ii) shall state substantially the following:

To: (insert name of individual whose parental rights with respect to the child are subject to termination)

A petition has been filed asking the court to end your parental rights with respect to (insert name of child). The court has scheduled a hearing to consider ending all your rights to this child to be held in (insert place, giving reference to the exact room and building number or designation) on (insert date) at (insert time). You are warned that if you fail to appear at the scheduled hearing, the hearing will proceed without you and your rights to this child may be ended by the court without your being present. You have the right to be represented at the hearing by an attorney. You should take this document to your attorney at once. If you do not have an attorney or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

(Insert name)

(Insert address)

(Insert telephone number)

(4) A copy of the notice set forth in paragraph (3) shall be given to the other persons set forth in paragraph (1).

(5) The notice to the putative father must state that his parental rights with respect to the child are subject to termination if he fails to appear at the hearing to object to the termination of his parental rights.

(6) Any notice given under this subsection must include the list of rights and duties set forth in section 2204(a) (relating to notice of rights and duties of birth parent and adoptive parent).

Comment: With respect to the phrase “such other means as the court requires” in subsection (b)(2), see Rule 430 of the Pennsylvania Rules of Civil Procedure and its accompanying notes. Subsection (b)(3) is based on former section 2513(b). It is intended that a separate involuntary termination petition is required for a parent and presumptive father. The parental rights of only a putative father may be terminated without the benefit of a separate petition. It is enough that a putative father receive a copy of the notice of the hearing for a parent or presumptive father.

§ 2235. Hearing on involuntary termination.

(a) Private hearing discretionary.--The hearing on the involuntary termination of parental rights may be private.

(b) Objection by man claiming to be father.--If a man claiming to be the birth father of the child attends the hearing and objects to the termination of his parental rights with respect to the child, the court shall:

(1) grant him standing to establish his paternity with respect to the child;

and

(2) hear his testimony and allow him to assert his claim to the child.

(c) Mother competent witness on paternity.--The birth mother is a competent witness regarding whether the presumptive father or putative father is the birth father of the child.

Comment: Subsection (a) is based on former section 2513(d). Subsection (b) is designed to protect the man who does not fall within the strict definition of putative father but who attends

the hearing to assert his claim to the child. Subsection (c) is based on former section 2513(c). Under this subsection, the birth mother is placed under oath and instructed to identify the birth father of the child. As in the case of any witness, if she provides untruthful testimony, she is subject to legal consequences.

§ 2236. Court determination.

(a) Grounds.--After the filing of a petition for the involuntary termination of parental rights, the court shall determine whether at least one of the grounds alleged in the petition exists for the termination of parental rights based on clear and convincing evidence.

(b) Best interests.--If the court determines under subsection (a) that at least one ground exists to terminate parental rights, it shall determine whether termination serves the needs, welfare and best interests of the child, with primary consideration given to the developmental, physical and emotional needs and welfare of the child.

(c) Considerations.--

(1) The court may not terminate the rights of a parent solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care, if those factors are found to be beyond the control of the parent.

(2) Except with respect to section 2233(2)(iii) and (7), in determining whether a ground for involuntary termination exists, the court may not consider any efforts by the parent to remedy the grounds for termination which are initiated subsequent to notice of the filing of the petition.

Comment: Subsection (b) is based on the first sentence of former section 2511(b), except that the best interests standard is added. Subsection (c)(1) is based on the second sentence of former section 2511(b). Subsection (c)(2) is based on the third sentence of former section 2511(b), except that the court may not consider *any* remedial action initiated subsequent to notice of the filing of the petition, unless paragraphs (2)(iii) or (7) of section 2233 apply.

§ 2237. Final decree of termination of parental rights.

(a) Determination whether to grant decree.--After the hearing under section 2235 (relating to hearing on involuntary termination), the court shall determine whether parental rights should be terminated and may enter a final decree of termination of parental rights.

(b) Putative father.--The court may terminate the parental rights of a putative father of the child if he fails to appear at the involuntary termination hearing to object to the termination of his parental rights.

(c) Award of custody.--The final decree of termination of parental rights shall award custody of the child to the individual or agency designated in the petition for involuntary termination.

Comment: Subsection (a) is based on former section 2513(d). Subsection (c) is based on former section 2521(b).

SUBCHAPTER D

EFFECT OF DECREE OF TERMINATION OF PARENTAL RIGHTS

Sec.

2241. Termination of parental rights and duties.

2242. Vested rights and benefits.

2243. Termination of rights and duties of child.

§ 2241. Termination of parental rights and duties.

(a) General rule.--Subject to subsection (b), a decree of termination of parental rights terminates forever all the subject parent's parental rights and duties with respect to the child, including the obligation of support.

(b) Arrearages for child support.--A decree of termination of parental rights does not extinguish the duty of a parent to pay arrearages for child support.

Comment: Former section 2503(c) provided that the court may enter a decree of termination of parental rights in the case of a relinquishment to an individual intending to adopt the child or a decree of termination of parental rights and duties, including the obligation of support, in the case of a relinquishment to an agency. This section makes no such differentiation and terminates both rights and duties in all cases. However, the duty to pay child support arrearages continues after the termination of parental rights and duties.

§ 2242. Vested rights and benefits.

A decree of termination of parental rights does not affect any right or benefit vested in the child whose parent is the subject of the decree if the right or benefit vested before the date of the decree.

§ 2243. Termination of rights and duties of child.

Except as otherwise provided by this subchapter, a decree of termination of parental rights terminates forever all the rights and duties of a child with respect to the parent who is the subject of the decree.

CHAPTER 23

PLACEMENT OF CHILDREN

Subchapter

A. General Provisions

- B. Placement Generally
- C. Home Study
- D. Postplacement Evaluation
- E. Background on Child

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

- 2301. Who may conduct home study and postplacement evaluation.
- 2302. List of qualified agencies and individuals.
- 2303. Update of information.
- 2304. Additional home study, postplacement evaluation or report.
- 2305. Fees.
- 2306. Background checks on stepparent.

§ 2301. Who may conduct home study and postplacement evaluation.

(a) General rule.--Only a qualified agency or individual with professional experience in the adoption field may conduct a home study and postplacement evaluation under this chapter.

(b) Rules and regulations.--The department shall promulgate rules and regulations regarding the qualifications of an agency or individual to conduct a home study and postplacement evaluation under this chapter.

§ 2302. List of qualified agencies and individuals.

(a) Compilation of list.--Each county agency shall compile a list of qualified agencies and individuals within the county and surrounding areas to conduct a home study and postplacement evaluation under this chapter.

(b) Distribution of list.--Each county agency shall provide the list compiled under subsection (a) to any person upon request.

§ 2303. Update of information.

The court may require an update of information necessary under this chapter with respect to a home study, home study report, postplacement evaluation or postplacement report.

§ 2304. Additional home study, postplacement evaluation or report.

The court may require an additional home study, home study report, postplacement evaluation or postplacement report if it was not conducted or prepared in substantial compliance with the requirements of this chapter.

Comment: This section is not intended to enable a court to order an additional home study, home study report, postplacement evaluation or postplacement report simply because an agency or individual outside the county in which the court is located conducted or prepared it.

§ 2305. Fees.

An agency or individual may charge a reasonable fee for conducting or preparing a home study, home study report, postplacement evaluation or postplacement report.

§ 2306. Background checks on stepparent.

FBI, criminal and child abuse checks are required on a prospective adoptive parent who is the stepparent of the child.

Comment: Under section 2323(b), FBI, criminal and child abuse checks are required for a prospective adoptive parent as part of the home study. However, under section 2321, a home study is not required for a stepparent who is a prospective adoptive parent. This section ensures that background checks are performed on all prospective adoptive parents, including stepparents.

SUBCHAPTER B

PLACEMENT GENERALLY

Sec.

2311. Placement with prospective adoptive parent.

2312. Assent regarding placement.

2313. Factors affecting placement.

§ 2311. Placement with prospective adoptive parent.

(a) General rule.--Except as provided in subsections (b) and (c), if a home study is required under section 2321 (relating to when home study required), a child may be placed with a prospective adoptive parent only if all the following apply:

(1) The prospective adoptive parent received a favorable recommendation under section 2324(b)(5) (relating to home study report) or 2325(c)(2) (relating to judicial review) regarding suitability to adopt a child.

(2) A home study report under section 2324 for the prospective adoptive parent was:

(i) completed within the three years preceding the placement of the child with the prospective adoptive parent; and

(ii) updated within one year prior to the placement of the child with the prospective adoptive parent.

(b) Placement if home study not commenced or report not timely.--If a child is placed with a prospective adoptive parent and either a home study of the prospective adoptive parent has not commenced or the home study report for the prospective adoptive parent does not meet the requirements of subsection (a)(2):

(1) The person placing the child shall immediately notify the court in writing of the placement of the child and provide either of the following:

(i) The name of the agency or individual who will conduct a home study of the prospective adoptive parent or update a home study report for the prospective adoptive parent.

(ii) A request that the court designate an agency or individual to conduct the home study or update the home study report.

(2) The court shall designate an agency or individual to conduct the home study or update the home study report upon a request under paragraph (1)(ii).

(3) The agency or individual conducting the home study or updating the home study report under this subsection shall:

(i) commence the home study within seven business days of the notice to the court under paragraph (1);

(ii) visit the home of the prospective adoptive parent within 14 days of the notice; and

(iii) determine whether to file a written assent under section 2312(c) (relating to assent regarding placement).

(c) Placement if home study commenced but report not completed.--If a child is placed with a prospective adoptive parent and a home study of the prospective adoptive parent has commenced but the home study report under section 2324 has not yet been completed:

(1) The person placing the child shall immediately notify the court in writing of the following:

(i) The placement of the child.

(ii) The name of the agency or individual conducting the home study of the prospective adoptive parent.

(2) The agency or individual conducting the home study under this subsection shall:

(i) visit the home of the prospective adoptive parent within 14 days of the notice to the court under paragraph (1); and

(ii) determine whether to file a written assent under section 2312(c).

Comment: Former section 2530(c) provided a framework for an interim placement. If a parent directly places a child with a prospective adoptive parent before the attorney or agency coordinating the adoption is involved in the process, it is intended that the attorney or agency will satisfy the requirements under subsection (b)(1) or (c)(1).

§ 2312. Assent regarding placement.

(a) Applicability.--This section applies only if a placement occurs under section 2311(b) or (c) (relating to placement with prospective adoptive parent).

(b) General rule.--A placement may continue only if the agency or individual conducting the home study or updating the home study report files a written assent under this section.

(c) Filing assent with court.--If the agency or individual conducting the home study or updating the home study report has no reason to believe that the prospective adoptive parent will receive a negative recommendation regarding the

suitability to adopt a child, the agency or individual shall file a written assent with the court regarding the placement within ten days after the visit under section 2311(b)(3)(ii) or (c)(2)(i).

(d) Decision not to file assent with court.--If the agency or individual conducting the home study or updating the home study report has reason to believe that the prospective adoptive parent will receive a negative recommendation regarding the suitability to adopt a child, the agency or individual shall notify the court and the prospective adoptive parent in writing that it will not file a written assent regarding the placement.

(e) Withdrawal of assent.--At any time prior to the completion of a home study report or postplacement report, the agency or individual conducting the home study or postplacement evaluation may withdraw its assent to the placement if it learns of facts which will likely result in a negative recommendation regarding either the suitability to adopt a child or the finalization of the adoption of the child. A withdrawal under this subsection shall be in writing and filed with the court. A copy of the withdrawal shall be given to the prospective adoptive parent.

(f) Action by court.--If the agency or individual notifies the court under subsection (d) that it will not file a written assent or withdraws its assent under subsection (e), the court may:

(1) order the placement of the child in temporary foster care with an agency until the prospective adoptive parent receives a favorable recommendation regarding suitability to adopt the child; or

(2) order the permanent removal of the child from the home of the prospective adoptive parent and, if applicable, terminate the adoption process with respect to the prospective adoptive parent and the child.

Comment: Under this section, the court may hold a hearing or conference on the issue of the removal of the child. An order under subsection (f)(1) is interlocutory, and a prospective adoptive parent may not take a direct appeal of the order. This section contemplates that, even if the child is removed from the home of the prospective adoptive parent, the home study will be completed and a negative recommendation regarding the suitability to adopt may be appealed under section 2325. Furthermore, a negative recommendation regarding the finalization of the adoption will be reviewed at the adoption hearing.

§ 2313. Factors affecting placement.

The placement of a child may not be delayed or denied solely on the basis of age, gender, health, race, national origin, ethnicity, religious background or social or economic status of the child or prospective adoptive parent.

SUBCHAPTER C

HOME STUDY

Sec.

2321. When home study required.

2322. Meetings necessary for home study.

2323. Information to be gathered for home study.

2324. Home study report.

2325. Judicial review.

2326. Registry regarding home studies.

2327. Rules and regulations.

§ 2321. When home study required.

A home study is required of a prospective adoptive parent unless the prospective adoptive parent is a stepparent of the child.

§ 2322. Meetings necessary for home study.

(a) Who must attend meeting.--The agency or individual conducting the home study of a prospective adoptive parent shall meet with the following individuals:

(1) Each prospective adoptive parent separately.

(2) The prospective adoptive parents jointly.

(3) Each individual, regardless of age, who resides temporarily or permanently in the home of the prospective adoptive parent.

(b) Location of meeting.--A meeting under either subsection (a)(1) or (2) must take place in the home of the prospective adoptive parent.

Comment: This section does not necessarily require a separate visit for each meeting to be held under subsection (a). The agency or individual conducting the home study may meet more than once with the individuals listed in subsection (a). Educational information may be presented to a prospective adoptive parent at any meeting.

§ 2323. Information to be gathered for home study.

(a) Information from prospective adoptive parent.--The agency or individual conducting the home study shall request information from and about the prospective adoptive parent, including, but not limited to, the following:

(1) Name, address and telephone number.

(2) Age and date of birth.

(3) Occupation.

- (4) Race.
- (5) Ethnic background, including family of origin.
- (6) Educational background.
- (7) Social Security number.
- (8) Religious affiliation, if any.
- (9) Physical and personal description.
- (10) Current and prior marital status.
- (11) General relationship to the child.
- (12) Attitudes regarding adoption and motivation to adopt a child.
- (13) Parenting experience and other experience with children.
- (14) The capacity to meet the needs of a child.
- (15) Home and community environment.
- (16) Health information, including mental health information.
- (17) Financial and insurance information.
- (18) Whether a prior home study has been conducted on the prospective adoptive parent and any recommendation which resulted from the home study.

(b) Other information.--The agency or individual conducting the home study shall also gather the following information for the home study on the prospective adoptive parent:

- (1) Personal references from a relative and three nonrelatives of the prospective adoptive parent.

(2) FBI, criminal and child abuse checks on the prospective adoptive parent.

(3) Any other information relevant to the suitability of the prospective adoptive parent to adopt a child.

§ 2324. Home study report.

(a) Preparation of home study report.--The agency or individual conducting the home study shall prepare a report based on the home study.

(b) Contents of home study report.--A home study report must include, but need not be limited to, the following:

(1) The information set forth in section 2323 (relating to information to be gathered for home study).

(2) The name of any individual who resides temporarily or permanently in the home of the prospective adoptive parent.

(3) FBI, criminal and child abuse checks of any individual who is 18 years of age or older and resides temporarily or permanently in the home of the prospective adoptive parent.

(4) The date and location of each meeting held under section 2322 (relating to meetings necessary for home study) and the nature of any other contact that the agency or individual conducting the home study had with the prospective adoptive parent or any individual, regardless of age, who resides temporarily or permanently in the home of the prospective adoptive parent.

- (5) An evaluation and recommendation regarding the suitability of the prospective adoptive parent to adopt a child.
- (6) If the home study report contains a negative recommendation regarding the suitability of the prospective adoptive parent to adopt a child:
- (i) the specific factors supporting the negative recommendation; and
 - (ii) notice of the right to appeal the negative recommendation.
- (7) The date that the home study report was completed.
- (8) The name of the agency or individual conducting the home study.
- (9) The name and signature of the specific individual conducting the home study.
- (10) Any additional personal data or information which is required by the agency or individual conducting the home study.
- (c) Copy of home study report.--The agency or individual conducting the home study shall provide a copy of the home study report to the prospective adoptive parent.
- (d) Retention of home study report and notes.--If the adoption of the child by the prospective adoptive parent has not occurred, the agency or individual that conducted the home study of the prospective adoptive parent with respect to that child shall retain the home study report and any notes taken during the home study for at least three years.

Comment: Under subsection (b), the agency or individual conducting the home study is not required to list specific factors supporting the recommendation regarding suitability to adopt a child. Under section 2611, if the adoption is

completed, the home study report and notes taken during the home study must be kept as a permanent record.

§ 2325. Judicial review.

(a) Grounds for appeal.--A prospective adoptive parent may appeal the following to the court:

(1) A negative recommendation in a home study report regarding suitability to adopt a child.

(2) A decision under section 2312(d) (relating to assent regarding placement) not to file a written assent regarding the placement.

(3) A withdrawal of assent under section 2312(e).

(b) Requirements for appeal.--

(1) An appeal under this section must be filed within 90 days after receiving the home study report, decision not to file a written assent or withdrawal of assent referenced in subsection (a).

(2) A copy of the home study report, decision not to file a written assent or withdrawal of assent referenced in subsection (a) must be attached to the appeal.

(c) Hearing on appeal.--

(1) At least 30 days' notice of a hearing under this section shall be given to the agency or individual that conducted the home study.

(2) For an appeal of a negative recommendation in a home study report, if the court determines by a preponderance of the evidence that the prospective adoptive parent has proved suitability to adopt a child, it shall dispense with

the requirement of a favorable recommendation by the agency or individual conducting the home study regarding the suitability of the prospective adoptive parent to adopt a child. The court shall then issue a favorable recommendation regarding the suitability of the prospective adoptive parent to adopt a child.

(3) For an appeal of a decision not to file a written assent regarding the placement or an appeal of a withdrawal of assent, if the court determines by a preponderance of the evidence that the assent should have been filed or should not have been withdrawn, it shall make an appropriate order regarding the placement of the child and direct that the home study for the prospective adoptive parent be completed.

§ 2326. Registry regarding home studies.

(a) Establishment of registry.--The department shall establish a registry regarding home studies.

(b) Retention of information in registry.--The department shall retain the information filed with the registry for at least three years from the date of filing.

(c) Development of form.--The department shall develop a form to be used to file information with the registry.

(d) Filing of information with registry.--An agency or individual qualified in this Commonwealth to conduct a home study shall file with the registry the following information regarding home studies that the agency or individual has completed:

- (1) The name, address and telephone number of the agency or individual that conducted the home study.
 - (2) The name, address and telephone number of the prospective parent who is the subject of the home study.
 - (3) The date that the home study was completed.
- (e) Releasing information from registry.--The department shall upon request release information from the registry regarding a prior home study completed on a prospective adoptive parent to an agency or individual conducting a home study for the prospective adoptive parent.

Comment: This section is intended to promote the open exchange of information between agencies and individuals that conduct home studies, if a home study is being conducted for a prospective adoptive parent for whom a prior home study had been conducted.

§ 2327. Rules and regulations.

The department shall promulgate rules and regulations regarding standards that must be considered in determining the suitability of a prospective adoptive parent to adopt a child.

SUBCHAPTER D

POSTPLACEMENT EVALUATION

Sec.

2331. When postplacement evaluation required.
2332. Review of child placement.
2333. Meetings necessary for postplacement evaluation.
2334. Information to be gathered for postplacement evaluation.
2335. Postplacement report.

§ 2331. When postplacement evaluation required.

A postplacement evaluation is required of a prospective adoptive parent unless:

- (1) the prospective adoptive parent is a stepparent of the child; or
- (2) the placement of the child with the prospective adoptive parent occurred under section 2311(b) or (c) (relating to placement with prospective adoptive parent).

Comment: If a placement occurred under section 2311(b) or (c), a postplacement evaluation is not necessary since the home study itself fulfills the purpose of the postplacement evaluation.

§ 2332. Review of child placement.

The agency or individual conducting the postplacement evaluation shall conduct a review of the placement of the child with the prospective adoptive parent.

§ 2333. Meetings necessary for postplacement evaluation.

(a) Number of postplacement meetings.--

(1) If a child is already residing in the household of an individual when the individual decides to become a prospective adoptive parent of the child, a postplacement evaluation must consist of at least one postplacement meeting.

(2) If a child is placed with an individual who at the time of placement intends to adopt the child, a postplacement evaluation must consist of at least three postplacement meetings.

(b) Nature of postplacement meetings.--

(1) At least one postplacement meeting must occur in the home of the prospective adoptive parent.

(2) The child must be present at each postplacement meeting.

(3) The prospective adoptive parents must be present together during at least one postplacement meeting.

(4) Every individual, regardless of age, who resides temporarily or permanently in the home of the prospective adoptive parent must be present during at least one postplacement meeting.

(c) Timing of postplacement meetings.--

(1) The first postplacement meeting must occur within 14 days of either:

(i) the filing of the petition under section 2211 (relating to petition for voluntary relinquishment) if the child is already residing in the household of an individual when that individual decides to become a prospective adoptive parent of the child; or

(ii) the notice of the placement of the child if the child is placed with an individual who at the time of placement intends to adopt the child.

(2) A reasonable period of time must pass between the postplacement meetings.

Comment: It is anticipated that a reasonable period of time under subsection (c)(2) will be between 10 and 30 days. In addition, some families may require only a brief postplacement period, while others require a substantially longer period.

§ 2334. Information to be gathered for postplacement evaluation.

The agency or individual conducting the postplacement evaluation shall gather information regarding the placement of the child with the prospective adoptive parent, including, but not limited to, the following:

- (1) The name, address and telephone number of each prospective adoptive parent.
- (2) The name of the child.
- (3) The name and date of birth of any individual who resides temporarily or permanently in the home of the prospective adoptive parent.
- (4) The name, address and telephone number of the child's physician or pediatrician.
- (5) A minimum of one written report from the child's physician or pediatrician regarding the child's health and development.
- (6) The date of the child's placement with the prospective adoptive parent.
- (7) The adjustment of the child and prospective adoptive family to the placement.
- (8) The child's adjustment to school, if applicable, along with relevant school reports.
- (9) The nature and extent of any contact with the child's birth family.
- (10) Comments made by the child regarding the placement.

§ 2335. Postplacement report.

(a) Preparation of postplacement report.--The agency or individual conducting the postplacement evaluation shall prepare a report based on the postplacement evaluation.

(b) Contents of postplacement report.--A postplacement report must include, but need not be limited to, the following:

(1) The information set forth in section 2334 (relating to information to be gathered for postplacement evaluation).

(2) The date and location of each meeting held under section 2333 (relating to meetings necessary for postplacement evaluation) and the nature of any other contact that the agency or individual conducting the postplacement evaluation had with the prospective adoptive parent or any individual, regardless of age, who resides temporarily or permanently in the home of the prospective adoptive parent.

(3) An evaluation and recommendation regarding whether the adoption of the child by the prospective adoptive parent should be finalized.

(4) If the postplacement report contains a negative recommendation regarding the finalization of the adoption of the child by the prospective adoptive parent:

(i) the specific factors supporting the negative recommendation; and

(ii) notice that the negative recommendation will be reviewed at the adoption hearing under Subchapter C of Chapter 25 (relating to adoption hearing).

(5) The date that the postplacement report was completed.

(6) The name of the agency or individual conducting the postplacement evaluation.

(7) The name and signature of the specific individual conducting the postplacement evaluation.

(8) Any additional personal data or information which is required by the agency or individual conducting the postplacement evaluation.

(c) Copy of postplacement report.--The agency or individual conducting the postplacement evaluation shall provide a copy of the postplacement report to the prospective adoptive parent.

Comment: Under subsection (b), the agency or individual conducting the postplacement evaluation is not required to list specific factors supporting the recommendation regarding suitability to adopt the child.

SUBCHAPTER E

BACKGROUND ON CHILD

Sec.

2341. Preplacement full and fair disclosure.

2342. Prefinalization written report.

2343. Providing information to preparer of report.

2344. Development of forms.

§ 2341. Preplacement full and fair disclosure.

Before a child is placed with a prospective adoptive parent, the agency or other person placing the child shall provide the prospective adoptive parent of the child with a full and fair disclosure of information which may impact on the placement and the decision of the prospective adoptive parent to adopt the child.

§ 2342. Prefinalization written report.

(a) Information to be provided.--Before the adoption of a child is finalized, the agency or attorney coordinating the adoption shall provide the prospective adoptive parent of the child with a written report containing the following information, if reasonably available:

(1) Medical history information of the child, including, but not limited to, the following:

(i) The child's prenatal care.

(ii) The child's medical condition at birth.

(iii) Any drug or medication taken by the child's birth mother during pregnancy.

(iv) Any medical, psychological or psychiatric examination and diagnosis of the child.

(v) Any physical, sexual or emotional abuse suffered by the child.

(vi) A record of any immunizations and health care that the child received, including that which the child received while in foster or other care.

(2) Relevant medical history information of the child's birth parents and relatives which may affect the future health and well-being of the child, including, but not limited to, the following:

- (i) Any known disease or hereditary predisposition to disease.
- (ii) Any addiction to drugs or alcohol.
- (iii) The health of the child's birth mother during her pregnancy.
- (iv) The health of each birth parent at the child's birth.

(3) Relevant social history information of the child and the child's parents and relatives, including, but not limited to, the following:

- (i) The child's enrollment and performance in school, results of educational testing and any special educational needs.
- (ii) The child's racial, ethnic and religious background.
- (iii) A general description of the child's parents.
- (iv) The child's past and existing relationship with any individual with whom the child has regularly lived or visited.
- (v) The level of educational and vocational achievement of the child's parents and relatives and any noteworthy accomplishments.
- (vi) The circumstances leading to the decision to place the child for adoption.

(4) Information regarding whether the child was ever placed in foster care and, if so, the number of foster care placements, dates of each foster care

placement and anything significant which occurred during each foster care placement.

(5) Information regarding a criminal conviction or delinquency adjudication of the child.

(6) Information necessary to determine the child's eligibility for State or Federal benefits, including, but not limited to, adoption assistance and other financial or medical assistance.

(7) Information regarding a criminal conviction of a parent of the child for a felony and a proceeding in which a parent of the child was alleged to have abused, neglected, abandoned or otherwise mistreated the child, the child's sibling, another child in the child's household or the other parent of the child.

(b) Supplemental written report.--Before a hearing on a petition for adoption, the prospective adoptive parent shall be provided a supplemental written report containing information required by subsection (a) which was previously unavailable.

(c) When written report not required.--A written report under this section is required unless the prospective adoptive parent is a stepparent of the child.

(d) Identity of preparer of report.--A written report furnished under this section shall indicate who prepared the report.

(e) Confidentiality.--Unless confidentiality has been waived, any written report provided to the prospective adoptive parent under this subchapter shall be

edited to exclude the identity of any individual who furnished information or about whom information is reported.

(f) Filing report with court.--A report under this section shall be filed with the court which will finalize the adoption.

§ 2343. Providing information to preparer of report.

Subject to applicable laws regarding confidentiality, an individual or entity possessing information to be included in the report under section 2342 (relating to prefinalization written report) shall upon request provide that information to the agency or attorney preparing the report.

Comment: An example of what this section covers is medical history information collected by an attending physician or other health care provider of a birth mother at the time of the birth of the child.

§ 2344. Development of forms.

The department shall develop forms designed to obtain the specific information sought under this subchapter and provide the forms upon request to agencies and attorneys that coordinate adoptions.

CHAPTER 24

PROHIBITED AND PERMISSIBLE PAYMENTS AND ACTIVITIES

Sec.

2401. Payment for facilitating placement prohibited.

2402. Permissible payments.

2403. When acceptance of money or other valuable consideration prohibited.

2404. Reimbursement not condition for return of child.

§ 2401. Payment for facilitating placement prohibited.

An individual or entity, other than an agency, may not receive, request or accept money or other valuable consideration, directly or indirectly, solely for the purpose of facilitating the placement of a child for adoption.

§ 2402. Permissible payments.

(a) Specific expenses and costs which may be paid.--Subject to subsection (b), money or other valuable consideration may be paid or given for the following without violating this chapter or 18 Pa.C.S. § 4305 (relating to dealing in infant children):

(1) Medical, hospital and physician or other health care provider expenses associated with prenatal care, delivery and postnatal care for the birth mother and child.

(2) Medical, hospital and foster care expenses incurred on behalf of the child before the adoption decree is entered.

(3) Religious, psychological or psychiatric counseling expenses for the birth mother, birth father and prospective adoptive parent.

(4) Reasonable living expenses for the birth mother which are related to the pregnancy, including, but not limited to, food, clothing, medicine, vitamins and diet supplements.

(5) Reasonable attorney fees and costs for the birth mother, birth father and prospective adoptive parent.

(6) Reasonable travel expenses for the birth mother and birth father to attend counseling, receive medical services and attend court hearings.

(7) Reasonable fees and costs relating to home studies, postplacement evaluations and the collection and reporting of information under Chapter 23 (relating to placement of children).

(8) Reasonable agency fees and costs, including, but not limited to, expenses for legal services, court costs, travel expenses and administrative expenses.

(b) When specific expenses and costs incurred.--Payments for the expenses and costs under subsection (a) are permitted if the expenses and costs are incurred:

(1) during the birth mother's pregnancy and for a period not to exceed six weeks after the birth of the child or the end of the birth mother's pregnancy; and

(2) after the time that a birth parent of the child contacted the agency, attorney or prospective adoptive parent with the intention of placing the child for adoption.

(c) Who may pay specific expenses and costs.--The expenses and costs under subsection (a) may be paid by the following:

(1) A prospective adoptive parent of the child.

(2) An adoptive parent of the child.

(3) An agency or other person acting on behalf of the prospective adoptive parent or adoptive parent of the child.

Comment: Subsection (a) is based on former section 2533(d) and expanded. Subsection (a)(4) may include reasonable housing expenses for the birth mother.

§ 2403. When acceptance of money or other valuable consideration prohibited.

(a) Violation by parent.--A parent may not accept money or other valuable consideration otherwise permitted under section 2402 (relating to permissible payments) after the parent has decided not to complete the process of voluntarily relinquishing parental rights with respect to the child or placing the child for adoption.

(b) Entitlement to recovery.--A prospective adoptive parent is entitled to recover money or other valuable consideration accepted by a parent in violation of subsection (a).

§ 2404. Reimbursement not condition for return of child.

If the adoption of the child is not completed, a parent who received a payment under section 2402 (relating to permissible payments) shall not be required to return the money or other valuable consideration or reimburse a prospective adoptive parent as a condition for the return of the child.

CHAPTER 25

ADOPTION PROCEEDINGS

Subchapter

- A. Petition for Adoption
- B. Consent to Adoption

- C. Adoption Hearing
- D. Adoption Decree

SUBCHAPTER A

PETITION FOR ADOPTION

Sec.

- 2501. Who may file petition for adoption.
- 2502. Contents of petition for adoption.
- 2503. When to file petition for adoption.
- 2504. Fee for counseling fund.
- 2505. Withdrawal or dismissal of petition for adoption.

§ 2501. Who may file petition for adoption.

A petition for adoption may be filed by any of the following:

(1) An individual set forth in section 2231(3) or (4) (relating to who may file petition for involuntary termination).

(2) An individual with whom a child is placed for adoption in connection with a parent's execution of a voluntary relinquishment form under Subchapter B of Chapter 22 (relating to voluntary relinquishment of parental rights).

(3) The spouse of a parent of the child if:

(i) that parent's parental rights with respect to the child have not been terminated;

(ii) that parent consents to the adoption; and

(iii) the other parent's parental rights with respect to the child have been terminated.

(4) For good cause shown, any individual if:

(i) a parent whose parental rights with respect to the child have not been terminated consents to the adoption; and

(ii) the other parent's parental rights with respect to the child have been terminated.

(5) An individual who intends to adopt another individual who is 18 years of age or older, with the consent of that other individual.

(6) With leave of court or for good cause shown, an individual who has court-ordered custody or legal guardianship of the child.

Comment: Under paragraph (4), a parent may consent to the adoption of that parent's child by any individual, without that parent losing parental rights with respect to the child.

§ 2502. Contents of petition for adoption.

(a) Necessary information.--A petition for adoption must contain the following:

(1) A copy of the home study report if required to be prepared under Subchapter C of Chapter 23 (relating to home study).

(2) A copy of the postplacement report, if required to be prepared under Subchapter D of Chapter 23 (relating to postplacement evaluation).

(3) An update of information provided in the reports under paragraphs (1) and (2).

(4) The following information regarding the child:

(i) Full name.

(ii) Age and date of birth.

- (iii) Place of birth.
 - (iv) Gender.
 - (v) Race.
 - (vi) Religious affiliation, if any.
 - (vii) Date of placement with the prospective adoptive parent.
- (5) A copy of the final decree terminating parental rights with respect to the child, but a certified copy of the decree if the court which finalizes the adoption is not the court which issued the decree.
- (6) A copy of the executed voluntary relinquishment form under Subchapter B of Chapter 22 (relating to voluntary relinquishment of parental rights).
- (7) The consents required under Subchapter B (relating to consent for adoption).
- (8) A voluntary relinquishment, consent or surrender given outside this Commonwealth.
- (9) FBI, criminal and child abuse checks on a prospective adoptive parent who is the stepparent of the child.
- (10) Either of the following:
- (i) The child's certificate of birth or certification of registration of birth.
 - (ii) If the child's certificate of birth or certification of registration of birth is not available, an explanation of the efforts made to obtain the

documents and a request that the court establish a date and place of birth for the child on the basis of the evidence presented.

(11) If a change in name of the child is desired, the new name.

(12) A statement whether medical history information and social history information were requested and obtained from a birth parent of the child.

(13) A statement that no applicable Federal, interstate or state law has been violated with respect to the placement and adoption of the child.

(14) A copy of the approved and completed form relating to the interstate compact placement request developed under the Interstate Compact on the Placement of Children, if applicable.

(15) A statement that the petitioner has received the list of rights and duties set forth in section 2204(a) (relating to notice of rights and duties of birth parent and adoptive parent).

(16) An adoption assistance agreement executed under section 2823 (relating to adoption assistance agreement), if applicable.

(b) Information not available when petition for adoption filed.--If any of the information set forth in subsection (a) is not available when the petition for adoption is filed, the petition must explain why the information is not available. The information shall be provided to the court as soon as it becomes available.

Comment: Subsection (a) is based on sections 2701 and 2702 and expanded. Subsection (a)(14) refers to what is currently form ICPC 100A, titled “Interstate Compact Placement Request.”

§ 2503. When to file petition for adoption.

A petition for adoption shall be filed within 90 days of the date of placement of the child with the prospective adoptive parent, unless the court allows a later filing.

Comment: A petition for adoption may only be filed after or simultaneously with a petition for the termination of parental rights.

§ 2504. Fee for counseling fund.

(a) General rule.--Except as provided in subsection (b), when a petition for adoption is filed, a fee in the amount of \$75 shall be collected for the counseling fund established under section 2108(g) (relating to counseling).

(b) Exception.--The fee under subsection (a) may not be collected if:

(1) the adoption concerns an adoptee eligible for adoption assistance under Chapter 28 (relating to adoption assistance); or

(2) the court reduces or waives the filing fee for the petition for adoption because of demonstrated financial hardship.

Comment: This section is based on former section 2505(e). The purpose of this fee is to fund counseling sessions set forth in section 2108. It is intended that any individual who files a petition for adoption, even in the case of a kinship adoption, must pay the \$75 fee, unless that individual falls within the exceptions under subsection (b).

§ 2505. Withdrawal or dismissal of petition for adoption.

If a petition for adoption is withdrawn or dismissed, the court shall enter an appropriate order regarding the custody of the child.

Comment: This section is based on former section 2902(b).

SUBCHAPTER B

CONSENT TO ADOPTION

Sec.

- 2511. When consent to adoption required.
- 2512. When consent to adoption may be required.
- 2513. When consent to adoption not required.
- 2514. Contents of consent to adoption.

§ 2511. When consent to adoption required.

The court shall require the consent to the adoption by the following individuals:

- (1) The individual proposed to be adopted if the individual is 12 years of age or older.
- (2) The child's parent if:
 - (i) that parent's parental rights with respect to the child have not been terminated; and
 - (ii) another individual is adopting the child.

Comment: Paragraph (1) is based on former section 2711(a)(1). Paragraph (2) refers to cases that arise as a result of a filing of a petition for adoption under section 2501(3) and (4).

§ 2512. When consent to adoption may be required.

The court may require the following to consent to the adoption of the child:

- (1) The spouse of the prospective adoptive parent unless the spouse joins in the petition for adoption.
- (2) The court-appointed legal guardian of the child.

(3) The person having custody of the child when the child has no parent whose consent is required.

Comment: This section is based on former section 2711(a)(2), (4) and (5). Unless the court directs otherwise, these consents are not necessary.

§ 2513. When consent to adoption not required.

The court shall not require the consent to the adoption of the child of any individual whose parental rights have been terminated with respect to the child.

§ 2514. Contents of consent to adoption.

A consent to the adoption under this subchapter must include the following information:

- (1) The date and place of its execution.
- (2) The name of the child.
- (3) The name and age of the consenting individual, along with the relationship between the consenting individual and the child.
- (4) A statement that the consenting individual voluntarily and unconditionally consents to the adoption of the child.

SUBCHAPTER C

ADOPTION HEARING

Sec.

2521. Scheduling of adoption hearing.

2522. Notice of adoption hearing.

2523. Procedure for adoption hearing.

2524. Financial disclosure by prospective adoptive parents.

2525. Investigation.

§ 2521. Scheduling of adoption hearing.

The court shall schedule a hearing on the petition for adoption even if the postplacement report required under section 2502(a)(2) (relating to contents of petition for adoption) has not been filed.

§ 2522. Notice of adoption hearing.

Notice of a hearing under this subchapter shall be given to any person whose consent to the adoption is required and any other person as the court directs. Notice shall be given by personal service or registered mail to the last known address of the person or by such other means as the court requires.

Comment: This section is based on former section 2721. With respect to the phrase “such other means as the court requires,” see Rule 430 of the Pennsylvania Rules of Civil Procedure and its accompanying notes.

§ 2523. Procedure for adoption hearing.

(a) Private hearing discretionary.--A hearing under this subchapter may be private.

(b) Attendance at adoption hearing.--

(1) The prospective adoptive parents and the individual proposed to be adopted shall attend the hearing unless the court determines that their presence is unnecessary.

(2) The court may require the attendance of the following persons at the hearing:

- (i) Any person whose consent to the adoption is required by the court.
- (ii) A representative of the agency coordinating the adoption.

(iii) Any other individual as the court directs.

(c) Testimony.--The court shall take testimony regarding the proposed adoption and may require testimony under oath by any individual set forth in subsection (b).

(d) Objection by man claiming to be father.--If a man whose parental rights have not already been terminated attends the hearing, claims to be the birth father of the child and objects to the adoption, the court shall:

(1) grant him standing to establish his paternity with respect to the child, if that determination has not already occurred; and

(2) hear his testimony and allow him to assert his claim to the child.

Comment: Subsection (a) is based on former section 2722. Subsection (b) is based on former section 2723. Subsection (c) is based on the first sentence of former section 2724(a). Under subsection (c), the court shall take testimony regarding a negative recommendation in the postplacement report regarding whether the adoption of the child by the prospective adoptive parent should be finalized. Subsection (d) is designed to protect the man who does not fall within the strict definition of putative father but who attends the hearing to assert his claim to the child. If it is determined that the man is the birth father of the child, his parental rights must be terminated under Chapter 22 before the proposed adoption may occur.

§ 2524. Financial disclosure by prospective adoptive parents.

(a) Itemized accounting required.--The court shall require the prospective adoptive parents of the child to submit an itemized accounting of any money and other valuable consideration provided or to be provided, directly or indirectly, to any person or entity in connection with the placement and adoption of the child.

(b) Verification required.--The prospective adoptive parents of the child shall verify the itemized accounting under subsection (a) subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Comment: Subsection (a) is based on the second sentence of former section 2724(a). It is anticipated that an agency will provide an itemized bill to the prospective adoptive parents. The itemized information will then be provided to the court as part of the financial disclosure required under this section. Section 2216(a)(9) provides that an individual executing a voluntary relinquishment form must verify the amount of money or other valuable consideration received or to be received by that individual in connection with the placement and adoption of the child.

§ 2525. Investigation.

(a) Need to verify information.--The court may order an investigation by a person, county agency or, with its consent, another agency specifically designed to verify any statement in the petition for adoption and any other fact regarding the proposed adoption.

(b) Payment of costs.--The court may order the costs of the investigation under this section to be paid by the county, petitioner or another person as the court directs.

Comment: Subsection (a) is based on the first sentence of former section 2724(b). Subsection (b) is based on former section 2724(c).

SUBCHAPTER D

ADOPTION DECREE

Sec.

2531. Basis of adoption decree.

2532. When adoption decree may be entered.

- 2533. Name of adoptee.
- 2534. Effect of adoption decree.
- 2535. Challenge to adoption decree.
- 2536. Notice to birth parents outside Commonwealth.

§ 2531. Basis of adoption decree.

The court shall determine whether to grant the petition for adoption based on the needs, welfare and best interests of the child. It shall not base its decision solely on the age, gender, health, race, national origin, ethnicity, religious background or social or economic status of the child or prospective adoptive parents.

Comment: This section is based on the second sentence of former section 2724(b).

§ 2532. When adoption decree may be entered.

Unless the court for cause shown determines otherwise, the court may enter an adoption decree only if all the applicable requirements under this part are met, including the following:

- (1) The termination of parental rights with respect to the child.
- (2) The completion of the reports under Chapter 23 (relating to placement of children).
- (3) The execution of all consents under this chapter.

Comment: This section is based on former section 2901.

§ 2533. Name of adoptee.

The adoption decree must state the name by which the adoptee shall be known.

§ 2534. Effect of adoption decree.

(a) Rights and duties.--

(1) An adoptee has all the rights of a child and heir of the adoptive parent and is subject to the duties of a child to the adoptive parent.

(2) An adoptive parent has all the rights of a parent and heir of the adoptee and is subject to the duties of a parent to the adoptee.

(b) Retention of parental status.--If a parent of the child consents to the adoption of the child by the spouse of the parent or any other individual under section 2511(2) (relating to when consent to adoption required), the parent-child relationship between the parent and child continues.

Comment: Subsection (a)(1) is based on former section 2902(a).

§ 2535. Challenge to adoption decree.

Notwithstanding any other provision under this part, an adoption decree is not subject to a challenge by any person for any reason other than lack of jurisdiction unless the challenge is filed in the court which entered the adoption decree within 30 days after the entry of the adoption decree.

Comment: Although there is no particular form that this challenge must take, a challenge may include, but is not limited to, an action to determine paternity, a motion for special relief and a motion for injunctive relief. It is not intended that a filing of a custody action under Chapter 53 is deemed a challenge because the focus of such an action is shifted away from the general principle of parental rights. The 30-day limit is intended to provide finality to the adoption process. This time frame must be read in conjunction with other protections throughout the Adoption Act, such as the additional opportunity for a presumptive father and putative father to

receive notice of a pending hearing on the termination of parental rights or adoption and participate in the process.

§ 2536. Notice to birth parents outside Commonwealth.

After an adoption decree is entered, the court shall send a birth parent whose parental rights were terminated in another state a list of the rights and duties set forth in section 2204(a) (relating to notice of rights and duties of birth parent and adoptive parent).

Comment: The court shall send the list of rights and duties to the address contained in the documents attached to the petition for adoption.

CHAPTER 26

RECORDS AND ACCESS TO INFORMATION

Subchapter

- A. General Provisions
- B. Records Generally
- C. Registry for Medical and Social History Information
- D. Nonidentifying Information in Court and Agency Records
- E. Identifying Information in Court and Agency Records
- F. Search
- G. Information from Original Certificate of Birth

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

- 2601. Definitions.
- 2602. Combined request for information.
- 2603. Reasonable fees.
- 2604. Immunity from liability.
- 2605. Authorized representative qualification.

§ 2601. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agency records.” The term includes all information collected by an agency relating to a birth family, an adoptive family and an adoptee.

“Authorized representative.” An individual who is appointed to conduct a search under this chapter.

“Court records.” The term includes all petitions, exhibits, reports, notes of testimony, decrees, and other papers pertaining to a proceeding under this part or former statutes relating to adoption.

Comment: The definition of court records is based on former section 2905(a).

§ 2602. Combined request for information.

An individual may file a single written request for both nonidentifying information under Subchapter D (relating to nonidentifying information in court and agency records) and identifying information under Subchapter E (relating to identifying information in court and agency records).

§ 2603. Reasonable fees.

Any court or agency may charge reasonable fees for services provided under Subchapters D (relating to nonidentifying information in court and agency records), E (relating to identifying information in court and agency records) and F (relating to search).

§ 2604. Immunity from liability.

(a) General rule.--Any person or agency, including the Commonwealth and its governmental subdivisions, that participates in good faith in providing services under this chapter has immunity from civil and criminal liability that may otherwise result by reason of an action or a failure to act under this chapter.

(b) Presumption of good faith.--For the purpose of a civil or criminal proceeding, the good faith of any person or agency that provides services under this chapter is presumed.

§ 2605. Authorized representative qualification.

An authorized representative shall complete a standardized training program developed by the department under section 2656 (relating to rules and regulations).

SUBCHAPTER B

RECORDS GENERALLY

Sec.

2611. Retention of court and agency records.

2612. Court records.

2613. Agency records.

2614. Attorney records.

§ 2611. Retention of court and agency records.

Court records and agency records compiled under this part shall be retained permanently to assure their availability to individuals who have a right to information contained in the records.

§ 2612. Court records.

(a) Inspection of court records.--Court records shall be withheld from inspection except as otherwise provided in this chapter or upon an order of the court for cause shown.

(b) Reports concerning placement of children.--Before releasing information from a home study report or a postplacement report required to be filed under Chapter 23 (relating to placement of children), the court shall remove identifying information.

(c) Who may access court records.--Only the following are authorized to access court records for the purpose of releasing nonidentifying information or identifying information under this chapter:

- (1) The court which finalized the adoption.
- (2) The agency that coordinated the adoption.
- (3) A successor agency authorized by the court which finalized the adoption.

Comment: Subsections (a) and (b) are based on former section 2905(a).

§ 2613. Agency records.

(a) Prohibition against destroying agency records.--An agency may not destroy its agency records.

(b) Forwarding records to department.--Notwithstanding section 2611 (relating to retention of court and agency records):

(1) If an agency ceases to provide adoption services, it shall forward all its agency records to the department.

(2) If an agency decides to dispose of any agency records, it shall forward the records to the department.

(3) At least 30 days prior to forwarding records under paragraph (1) or (2), an agency shall notify the department by registered mail that the records will be forwarded.

(c) Duties of department.--

(1) The department shall retain as a permanent record all agency records forwarded to it under subsection (b).

(2) The department shall promulgate rules and regulations necessary to implement this section.

Comment: The former statute did not require agencies to retain records relating to adoptions. However, 55 Pa. Code § 3350.14(e) provides that adoption agencies have the option to destroy records “50 years from the date of placement.”

§ 2614. Attorney records.

An attorney representing a party to an adoption proceeding or acting as counsel or guardian ad litem for a child in a proceeding under this part may forward records and information relating to the child, the child’s birth family and the adoptive family to the court which finalized the adoption. Such records and information shall be treated as court records for purposes of this chapter.

Advisory Committee Note: The advisory committee recommends that rules be changed or promulgated to require that an attorney retain permanently all attorney records

referenced in this section, unless such records are forwarded to the court.

SUBCHAPTER C

REGISTRY FOR MEDICAL AND SOCIAL HISTORY INFORMATION

Sec.

- 2621. Establishment of registry.
- 2622. Retention of information in registry.
- 2623. Development of form.
- 2624. Informational material.
- 2625. Filing information with registry.
- 2626. Who may request information from registry.
- 2627. Providing information from registry.
- 2628. Rules and regulations.

§ 2621. Establishment of registry.

The department shall establish a registry for medical history information and social history information.

§ 2622. Retention of information in registry.

The department shall retain the information filed with the registry as a permanent record.

§ 2623. Development of form.

The department shall develop a form to be used by a birth parent to file and update information with the registry.

§ 2624. Informational material.

The department shall publicize the availability of the registry and the manner in which information may be filed with and obtained from the registry.

§ 2625. Filing information with registry.

A birth parent may at any time file and update medical history information and social history information with the registry on a form developed by the department.

§ 2626. Who may request information from registry.

The following individuals may request information from the registry:

- (1) An adoptee who is 18 years of age or older.
- (2) An adoptive parent of an adoptee who is under 18 years of age, incapacitated or deceased.
- (3) A legal guardian of an adoptee who is under 18 years of age or incapacitated.

§ 2627. Providing information from registry.

(a) When information to be provided.--Subject to subsection (b), the department shall provide information to an individual who requests it under section 2626 (relating to who may request information from registry) within 30 days of the request.

(b) Editing information.--Before the release of information from the registry, the department shall remove identifying information regarding a birth parent or another birth relative of the adoptee.

§ 2628. Rules and regulations.

The department shall promulgate rules and regulations necessary to implement this subchapter.

Comment: Medical and social history information may also be added to the court records under Subchapter D. Under that subchapter, information may be added to the record by, among others, the birth parent, the adoptive parent and the adoptee. Subchapter D also provides that an adoptee or birth parent may request medical and social history information of the other individual through the court.

SUBCHAPTER D

NONIDENTIFYING INFORMATION IN

COURT AND AGENCY RECORDS

Sec.

- 2631. Requesting and furnishing nonidentifying information.
- 2632. Adding medical and social history information to court records.
- 2633. Notice of filing of medical and social history information with court.
- 2634. Request for medical and social history information from court.
- 2635. Providing medical and social history information from court records.
- 2636. Expedited procedure when cause shown.
- 2637. Request to provide medical and social history information through court.
- 2638. Withdrawal of medical and social history information from court records.

§ 2631. Requesting and furnishing nonidentifying information.

(a) Who may request.--The following individuals may file a written request for nonidentifying information with the court which finalized the adoption or the agency which coordinated the adoption:

- (1) An adoptee who is 18 years of age or older.
- (2) An adoptive parent of an adoptee who is:
 - (i) under 18 years of age;
 - (ii) incapacitated and 18 years of age or older; or
 - (iii) deceased.

(3) A legal guardian of an adoptee who is under 18 years of age or incapacitated.

(4) A descendant of a deceased adoptee.

(b) Notice of availability of records.--When the court or agency receives a written request for nonidentifying information, it shall notify the individual requesting the information within 30 days of receiving the request whether it possesses or can locate records relating to the adoption.

(c) Furnishing nonidentifying information.--If records relating to the adoption are located, the court or agency shall within 90 days of receiving the written request for nonidentifying information furnish the information to the individual.

Comment: Eliminating the requirement found in former section 2905(b) that a petition be filed to request information is intended to facilitate the process of seeking nonidentifying information. Time requirements were included in this section to avoid undue delays in the process of obtaining nonidentifying information.

§ 2632. Adding medical and social history information to court records.

(a) Information for benefit of birth relatives.--The following individuals may at any time file with the court which finalized the adoption a statement regarding medical history information and social history information which may be important to a birth parent, another child of a birth parent or a blood relative of a birth parent:

(1) An adoptee who is 18 years of age or older.

(2) An adoptive parent of an adoptee who is under 18 years of age, incapacitated or deceased.

(3) A legal guardian of an adoptee who is under 18 years of age or incapacitated.

(4) A descendant of a deceased adoptee.

(b) Information for benefit of adoptee.--The following individuals may at any time file with the court which terminated parental rights or finalized the adoption a statement regarding medical history information and social history information which may be important to an adoptee:

(1) A birth parent.

(2) A legal guardian of an incapacitated birth parent.

(3) A survivor of a deceased birth parent.

(c) Statement made part of record.--A statement filed under subsection (a) or (b) shall be maintained as a permanent record of the court in which it is filed.

(d) Forwarding statement.--If a statement under subsection (b) is filed in the court which terminated parental rights, a copy of the statement shall be forwarded to the court which finalized the adoption and maintained as a permanent record of that court.

§ 2633. Notice of filing of medical and social history information with court.

(a) Information filed for benefit of birth relatives.--Within ten days of the filing of a statement under section 2632(a) (relating to adding medical and social history information to court records), the court shall give notice of the filing to the following individuals if known or identified in the court records:

(1) A birth parent.

(2) A legal guardian of an incapacitated birth parent.

(3) A survivor of a deceased birth parent.

(b) Information filed for benefit of adoptee.--Within ten days of the filing of a statement under section 2632(b), the court shall give notice of the filing to the following individuals if known or identified in the court records:

(1) An adoptee who is 18 years of age or older.

(2) An adoptive parent of an adoptee who is under 18 years of age, incapacitated or deceased.

(3) A legal guardian of an adoptee who is under 18 years of age or incapacitated.

(c) Where to send notice.--The court shall send the notice under subsections (a) and (b) to the address contained in the court records.

Comment: It is incumbent upon an individual to keep the court informed of a current address.

§ 2634. Request for medical and social history information from court.

An individual who received notice under section 2633 (relating to notice of filing of medical and social history information with court) may submit to the court a written request for the information.

§ 2635. Providing medical and social history information from court records.

(a) When information to be provided.--Subject to subsection (b), the court shall provide to a requesting individual under section 2634 (relating to request for medical and social history information from court) the requested information within 30 days of the request.

(b) Editing information.--Before the release of any information from the court records, the court shall remove identifying information regarding the adoptee, an adoptive parent of an adoptee, a birth parent of the adoptee or another birth relative of the adoptee.

§ 2636. Expedited procedure when cause shown.

(a) General rule.--If the individual filing the medical history information or social history information with the court shows cause for the information to be provided immediately to another individual, the court shall immediately provide the information to the intended recipient, after removing identifying information regarding the adoptee, an adoptive parent of the adoptee, a birth parent of the adoptee or another birth relative of the adoptee.

(b) When search required.--If the intended recipient of the information under subsection (a) is not located at the address contained in the court records or an address is not contained in the court records, the court shall commence a search under Subchapter F (relating to search). After the intended recipient is located, the court shall immediately provide the information to that individual.

§ 2637. Request to provide medical and social history information through court.

(a) Request for benefit of adoptee.--The following individuals may at any time request the court which finalized the adoption to ask a birth parent or legal guardian of an incapacitated birth parent to provide nonidentifying medical history information and social history information regarding the birth parent:

(1) An adoptee who is 18 years of age or older.

- (2) An adoptive parent of an adoptee who is under 18 years of age, incapacitated or deceased.
 - (3) A legal guardian of an adoptee who is under 18 years of age or incapacitated.
 - (4) A descendant of a deceased adoptee.
- (b) Request for benefit of birth parent.--A birth parent may at any time request the court which terminated parental rights or finalized the adoption to ask any of the following individuals to provide nonidentifying medical history information and social history information regarding the adoptee:
- (1) An adoptee who is 21 years of age or older.
 - (2) An adoptive parent of an adoptee who is:
 - (i) under 21 years of age;
 - (ii) incapacitated and 21 years of age or older; or
 - (iii) deceased.
 - (3) A legal guardian of an adoptee who is under 21 years of age or incapacitated.
 - (4) A descendant of a deceased adoptee.
- (c) Forwarding request.--If a request under subsection (b) is filed in the court which terminated parental rights, a copy of the request shall be forwarded to the court which finalized the adoption.
- (d) Procedure for court which finalized adoption.--Upon receiving a request under this section, the court which finalized the adoption shall:

(1) contact the individual from whom the information is requested to determine whether that individual is willing to provide the information;

(2) commence a search under Subchapter F (relating to search) if the individual from whom the information is requested is not located at the address contained in the court records or an address is not contained in the court records; and

(3) provide the information to the requesting individual, after removing identifying information regarding the adoptee, an adoptive parent of the adoptee, a birth parent of the adoptee or another birth relative of the adoptee.

§ 2638. Withdrawal of medical and social history information from court records.

Any individual who added information to the court records under section 2632 (relating to adding medical and social history information to court records) may withdraw the information at any time.

SUBCHAPTER E

IDENTIFYING INFORMATION IN COURT

AND AGENCY RECORDS

Sec.

2641. Request for identifying information.

2642. Disclosure of identifying information.

2643. Unsuccessful search for birth parent.

§ 2641. Request for identifying information.

(a) Who may request.--The following individuals may file a written request for identifying information with the court which finalized the adoption or the agency which coordinated the adoption:

(1) An adoptee who is 18 years of age or older.

(2) An adoptive parent of an adoptee who is:

(i) under 18 years of age;

(ii) incapacitated and 18 years of age or older; or

(iii) deceased.

(3) A legal guardian of an adoptee who is under 18 years of age or incapacitated.

(4) A descendant of a deceased adoptee.

(5) A birth parent of an adoptee who is 21 years of age or older.

(6) A parent of a birth parent of an adoptee who is 21 years of age or older if that birth parent consents, is incapacitated or is deceased.

(7) A birth sibling of an adoptee if both the birth sibling and adoptee are 21 years of age or older, the birth sibling remained in the custody of a birth parent and that birth parent consents, is incapacitated or is deceased.

(8) A birth sibling of an adoptee if the adoptee is 21 years of age or older and both the adoptee and birth sibling were adopted out of the birth family.

(b) Whose information may be requested.--An individual under subsection (a) may request information regarding the following individuals:

(1) An adoptee who is 21 years of age or older.

(2) A birth parent of an adoptee.

(3) A parent of a birth parent of an adoptee if the adoptee is 18 years of age or older and the birth parent is incapacitated or deceased.

(4) A birth sibling of an adoptee if:

(i) the birth sibling is 21 years of age or older and remained with a birth parent of the adoptee;

(ii) the adoptee is 18 years of age or older; and

(iii) the birth parent with whom the birth sibling remained is incapacitated or deceased.

(5) A birth sibling of an adoptee if the birth sibling is 21 years of age or older and the adoptee and birth sibling were adopted out of the birth family.

(c) Notice of availability of records.--When the court or agency receives a written request for identifying information, it shall notify the requesting individual within 30 days of receiving the request whether it possesses or can locate records relating to the adoption.

(d) Review of records.--If the court or agency receiving a written request for identifying information possesses the information, it shall determine whether its records contain an authorization of disclosure or disclosure veto filed under section 2642 (relating to disclosure of identifying information). The court or agency shall give notice of the request for identifying information to any other court or agency listed in its records. The other court or agency shall review its records to determine whether an authorization of disclosure or disclosure veto has been filed and advise the original court or agency of the results of the review.

(e) When search required.--If an applicable authorization of disclosure has not been located under subsection (d), the court or agency receiving the written

request for identifying information shall within 90 days of receiving the request commence a good faith search under Subchapter F (relating to search) to determine whether the individual whose identifying information is requested will authorize the disclosure of the information.

Comment: An adoptee may request information at age 18, but may not be the subject of a request for information until age 21. The reasoning for the different age requirements is that at age 18 an adoptee is an adult and should be allowed to request identifying information through the court or agency and at age 21 an adoptee is assumed to be more emotionally prepared to be contacted regarding a request for information, especially if the adoptee is unaware of the adoption. A birth sibling is intended to include a birth sibling of the whole or half blood.

§ 2642. Disclosure of identifying information.

(a) Authorization of disclosure.--

(1) An authorization of disclosure under this section must be in writing and contain the name and signature of the individual authorizing the disclosure of identifying information by the court or agency.

(2) Except as provided in section 2643 (relating to unsuccessful search for birth parent), if an adoption decree was entered before (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section), identifying information shall be disclosed to the requesting individual only if the individual whose information is requested files an authorization of disclosure with the court or agency.

(3) Subject to subsection (b), if an adoption decree was entered on or after (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section), identifying information regarding the following individuals shall be disclosed to a requesting individual only if the individual whose information is requested files an authorization of disclosure with the court or agency:

(i) An adoptee who is 21 years of age or older.

(ii) A parent of a birth parent of an adoptee if the adoptee is 18 years of age or older and the birth parent is incapacitated or deceased.

(iii) A birth sibling of an adoptee if:

(A) the sibling is 21 years of age or older and remained with a birth parent of the adoptee;

(B) the adoptee is 18 years of age or older; and

(C) the birth parent with whom the birth sibling remained is incapacitated or deceased.

(iv) A birth sibling of an adoptee if the birth sibling is 21 years of age or older and both the adoptee and birth sibling were adopted out of the birth family.

(b) Disclosure veto.--

(1) A disclosure veto under this section must be in writing and contain the name and signature of the birth parent prohibiting the disclosure of identifying information by the court or agency.

(2) Unless a birth parent has filed a disclosure veto with the court or agency, if an adoption decree was entered on or after (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section), identifying information regarding the birth parent shall be disclosed to a requesting individual.

(3) Subject to subsection (d)(2), if a birth parent of an adoptee has filed a disclosure veto under paragraph (2), no identifying information regarding any individual may be disclosed.

(4) Notwithstanding paragraphs (2) and (3), a disclosure veto is ineffective if:

(i) the birth parent who filed the disclosure veto is deceased or incapacitated; or

(ii) the court orders the release of the requested information for cause shown.

(c) Deceased or incapacitated birth parent.--If an adoptee requests identifying information regarding a birth parent, the information shall be disclosed upon request if the birth parent is deceased or incapacitated.

(d) Disclosure for only one birth parent.--If an adoptee requests identifying information regarding both birth parents:

(1) If an adoption decree was entered before (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section) and only one birth parent files an authorization of disclosure under subsection (a), identifying information regarding only that birth parent shall be disclosed upon request.

(2) If an adoption decree was entered on or after (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section) and only one birth parent files a disclosure veto, identifying information regarding only the other birth parent shall be disclosed upon request.

(e) Withdrawal of authorization of disclosure or disclosure veto.--An individual who filed an authorization of disclosure under subsection (a) or a disclosure veto under subsection (b) may withdraw it at any time by filing a withdrawal with the court or agency. A withdrawal under this subsection must be in writing and contain the name and signature of the individual withdrawing the authorization of disclosure or disclosure veto.

Comment: It is intended that if the court or agency finds a disclosure veto in the records then it must determine whether the birth parent who filed that disclosure veto is deceased or incapacitated.

§ 2643. Unsuccessful search for birth parent.

(a) Applicability.--This section applies only if all the following conditions are met:

(1) The adoption decree was entered before (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section).

(2) The adoptee is 18 years of age or older and files a written request for identifying information regarding a birth parent of the adoptee.

(3) A search is required under section 2641(e) (relating to request for identifying information).

(b) Report to court.--If during a search the birth parent is not located within 12 months after the filing of the written request, the authorized representative conducting the search shall report to the court which finalized the adoption and explain the attempts made to locate the birth parent.

(c) Action by court.--After the authorized representative reports to the court under subsection (b), the court may order the authorized representative to continue the search for six months or disclose from the court records identifying information regarding the birth parent. If the birth parent is not located after the additional six-month search, the court shall order the authorized representative to disclose from the court records identifying information regarding the birth parent.

SUBCHAPTER F

SEARCH

Sec.

2651. Purposes of search.

2652. Who may conduct search.

2653. Search process.

2654. Confidentiality.

2655. Requirements if agency declines to search.

2656. Rules and regulations.

§ 2651. Purposes of search.

A search under this subchapter may be conducted in order to:

(1) locate an intended recipient of information under section 2636 (relating to expedited procedure when cause shown);

(2) locate an individual from whom information is requested under section 2637 (relating to request to provide medical and social history information through court); and

(3) determine whether an individual will authorize the disclosure of identifying information under section 2642 (relating to disclosure of identifying information).

§ 2652. Who may conduct search.

Only the following may appoint an authorized representative to conduct a search under this subchapter:

(1) The court which finalized the adoption.

(2) The agency that coordinated the adoption.

(3) A successor agency authorized by the court which finalized the adoption.

§ 2653. Search process.

The search process includes, but is not limited to, the following, as reasonable and necessary:

(1) A review of court records and agency records for background information on the birth family or adoptive family, including last known address, names of family members, Social Security numbers, occupations and addresses of employment, military service, club and union affiliations, names of schools and colleges attended, and dates and places of marriages and deaths.

(2) A review of current and past telephone listings on a Statewide basis, if accessible.

(3) Accessing the letter forwarding service of the Social Security Administration.

(4) Contacting known employment, military, club and union affiliations.

(5) Contacting professional licensing boards.

(6) Contacting the local post office to verify last known addresses.

(7) Contacting cemeteries or funeral homes and reviewing obituaries if records indicate a deceased family member.

(8) Obtaining birth and death certificates of family members.

(9) Checking records of any applicable state's department of transportation.

(10) Reviewing available county records, including those held by the voter's registration office, the tax office, the recorder of deeds, the register of wills and the marriage license bureau.

(11) Accessing computer databases if requested and prepaid by the individual whose request for information precipitated the search.

§ 2654. Confidentiality.

(a) General rule.--In conducting a search, the court or agency shall ensure that no individual other than a birth parent is informed of the adoptee's existence and relationship to the birth parent of the adoptee.

(b) When inquiry not mandatory.--An authorized representative of the court or agency conducting a search may not make an inquiry which the representative reasonably believes may compromise the confidentiality relating to the relationship between the adoptee and a birth parent of the adoptee.

§ 2655. Requirements if agency declines to search.

If an agency declines to conduct a search to determine whether an individual will authorize the disclosure of identifying information under section 2642 (relating to disclosure of identifying information), the agency shall perform the following functions:

(1) Notify the individual requesting identifying information of its decision not to search and the availability of the court which finalized the adoption to conduct a search.

(2) Upon request forward the request for identifying information to the court which finalized the adoption.

(3) Make its records available to the court which finalized the adoption.

(4) Notify the requesting individual of the identity of the court to which the request was forwarded.

§ 2656. Rules and regulations.

The department shall promulgate rules and regulations implementing a standardized training program for court and agency authorized representatives conducting searches under this subchapter.

SUBCHAPTER G

INFORMATION FROM ORIGINAL CERTIFICATE OF BIRTH

Sec.

2661. Disclosure of information generally.

2662. Disclosure if adoption decree entered before (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section).

2663. Disclosure if adoption decree entered on or after (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section).

§ 2661. Disclosure of information generally.

Except as provided in this subchapter, a court, an agency, the Department of Health and any other Commonwealth agency may not disclose information from

an adoptee's original certificate of birth or documents of proof on which the adoptee's amended certificate of birth is based.

Comment: This section is based on former section 2905(d)(1).

§ 2662. Disclosure if adoption decree entered before (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section).

(a) Authorization of disclosure.--

(1) An authorization of disclosure under this section must be in writing and contain the name and signature of the birth parent authorizing the disclosure of information contained in the adoptee's original certificate of birth.

(2) If an adoption decree was entered before (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section), a birth parent may at any time file with the court or the Department of Health an authorization permitting the disclosure of information contained in the adoptee's original certificate of birth.

(b) Disclosure of information.--Subject to subsection (c), if an authorization of disclosure under subsection (a) has been filed, the court or the Department of

Health shall upon request disclose the information contained in an adoptee's original certificate of birth to any of the following individuals:

(1) An adoptee who is 18 years of age or older.

(2) An adoptive parent or a legal guardian of the adoptee who is under 18 years of age.

(c) Special rules for disclosure.--

(1) If only one birth parent files an authorization of disclosure under subsection (a), only the identity of that birth parent shall be disclosed upon request.

(2) If both birth parents file an authorization of disclosure, the information on the adoptee's original certificate of birth shall be disclosed upon request.

(3) If a birth parent is deceased, that birth parent's identity shall be disclosed upon request.

(4) If both birth parents are deceased, the information on the adoptee's original certificate of birth shall be disclosed upon request.

(d) Withdrawal of authorization.--A birth parent who filed an authorization of disclosure under subsection (a) may withdraw it at any time by filing a withdrawal with the court or the Department of Health. A withdrawal under this subsection must be in writing and contain the name and signature of the birth parent withdrawing the authorization of disclosure.

§ 2663. Disclosure if adoption decree entered on or after (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section).

Notwithstanding any other provision in this part to the contrary, if an adoption decree was entered on or after (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section), the Department of Health shall upon request disclose the information contained in an adoptee's original certificate of birth to any of the following individuals:

- (1) An adoptee who is 18 years of age or older.
- (2) An adoptive parent or a legal guardian of the adoptee who is under 18 years of age.

Comment: Notice of the effect of this section is provided to the birth parents prior to the termination of their parental rights under Chapter 22. A disclosure veto filed by a birth parent under section 2642(b) will not prevent disclosure of the information on the adoptee's original certificate of birth.

CHAPTER 27

ADOPTION SERVICES

Subchapter

- A. General Provisions
- B. Preadoption Services
- C. Postadoption Services

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

- 2701. Purposes.
- 2702. Definition.
- 2703. Fees.
- 2704. Services if placement outside Commonwealth.
- 2705. Rules and regulations.
- 2706. Annual report.
- 2707. Audit.

§ 2701. Purposes.

The purposes of this chapter are to accomplish the following:

(1) Reduce the barriers which prevent equal access to appropriate adoption services for children in the care of a county agency, prospective adoptive parents and adoptive parents.

(2) Enable children to experience the security of a permanent adoptive family with adoption services regardless of where they live in this Commonwealth.

(3) Facilitate the process of placing children for adoption and the transition of children into adoptive homes.

§ 2702. Definition.

For purposes of this chapter, “child profile” is a complete background and current description of the child, including, but not limited to, the following:

- (1) Age and gender.
- (2) Economic, cultural, religious, racial and ethnic background.
- (3) Developmental history.

- (4) Social history and development of interpersonal relationships.
- (5) Interests and activities.
- (6) Education history.
- (7) Medical history.
- (8) Psychological and psychiatric history.
- (9) Behavioral patterns.
- (10) The circumstances which led to the child's being in the care of a county agency.
- (11) Placement history, including duration, adjustment and significant events with respect to the child which occurred during each placement.
- (12) Risk factors which may impact on the adoptive placement.
- (13) Readiness for adoption.
- (14) All relevant nonidentifying information concerning the birth parents and other birth relatives of the child.
- (15) Eligibility for adoption assistance under Chapter 28 (relating to adoption assistance).

§ 2703. Fees.

The following individuals may not be assessed a fee for any adoption service provided under this chapter:

- (1) A child who is in the custody of a county agency and available for adoption.

(2) A prospective adoptive parent of a child who is in the custody of a county agency and available for adoption.

(3) A child who was in the custody of a county agency when adopted.

(4) An adoptive parent of a child who was in the custody of a county agency when adopted.

§ 2704. Services if placement outside Commonwealth.

The department shall develop a mechanism to provide and pay for adoption services for both children and families if a child covered by this subchapter is placed outside this Commonwealth, regardless of whether the jurisdiction where the child is placed pays for adoption services for children from that jurisdiction who are placed in this Commonwealth.

§ 2705. Rules and regulations.

The department shall promulgate rules and regulations necessary to implement this chapter.

§ 2706. Annual report.

Beginning one year after the effective date of this section and annually thereafter, the department shall submit to the General Assembly a fiscal and program evaluation report regarding the provision of adoption services under this chapter.

§ 2707. Audit.

Beginning four years after the effective date of this section and every four years thereafter, the Legislative Budget and Finance Committee shall submit to the

General Assembly a report assessing the provision of adoption services under this chapter and making recommendations regarding the services.

SUBCHAPTER B

PREADOPTION SERVICES

Sec.

- 2711. Applicability.
- 2712. Duty of department.
- 2713. Recruitment.
- 2714. Dissemination of information.
- 2715. Family education and preparation.
- 2716. Child assessment, education and preparation.
- 2717. Matching services.
- 2718. Preplacement services.
- 2719. Postplacement services.

§ 2711. Applicability.

This subchapter applies only if a child is in the custody of a county agency and available for adoption.

§ 2712. Duty of department.

The department shall ensure the provision of preadoption services, including, but not limited to, the services set forth in this subchapter.

Comment: Under this subchapter, it is intended that all reasonable means, including current and evolving state-of-the-art technology, will be used to provide the adoption services. Although this subchapter is not intended to cover home studies and postplacement evaluations because Chapter 23 specifically contains provisions for them, the department is not precluded from providing home studies and postplacement evaluations to a prospective adoptive parent who is seeking to adopt a child in the custody of a county agency and available for adoption.

§ 2713. Recruitment.

(a) Diligent efforts.--Diligent efforts shall be made to identify an appropriate prospective adoptive family for a child.

(b) Mandatory elements of recruitment.--General and child-specific recruitment of individuals and families who may be willing to adopt a child shall:

(1) reflect the ethnic and racial diversity of children who are in the custody of a county agency and available for adoption; and

(2) include the use of intercounty and interstate resources to facilitate the timely placement of a child.

§ 2714. Dissemination of information.

Information shall be made available, both Statewide and nationwide, to individuals and families who may be willing to adopt a child regarding the following:

(1) Pennsylvania's population of children who are in the custody of a county agency and available for adoption.

(2) Adoption assistance under Chapter 28 (relating to adoption assistance).

(3) Adoption in general.

(4) Resources on adoption law and practice.

§ 2715. Family education and preparation.

Education and preparation of individuals and families who may be willing to adopt a child must include, but need not be limited to, an explanation of the following:

- (1) The applicable procedures under Chapter 22 (relating to termination of parental rights).
- (2) Home studies, postplacement evaluations, the standards developed by the department regarding the suitability to adopt a child and the procedures regarding placement of a child under Chapter 23 (relating to placement of children).
- (3) The procedures under Chapter 25 (relating to adoption proceedings).
- (4) The purpose of adoption.
- (5) The general needs of children covered under this chapter and what is required of an adoptive family.
- (6) Adoption assistance under Chapter 28 (relating to adoption assistance).

§ 2716. Child assessment, education and preparation.

Assessment, education and preparation of a child must include, but need not be limited to, the following:

- (1) Preparation of a child profile.
- (2) An explanation of the purpose and reality of adoption.

(3) The general processes involved in the termination of parental rights, placement with a prospective adoptive family and the finalization of adoption.

§ 2717. Matching services.

Procedures for matching services for a child must include, but need not be limited to, the following:

(1) Unless a prospective adoptive parent has been identified for a child, the child shall be registered on at least one national exchange and one Statewide exchange on which all children in this Commonwealth who are in the custody of a county agency and available for adoption are registered. The registration shall:

(i) occur no later than 60 days after the entry of a judicial determination that the child cannot or should not be returned home to the parent; and

(ii) include a brief personal narrative and current photograph of the child.

(2) Prior to the placement of a child, a child profile shall be made available to a prospective adoptive parent of the child.

(3) After a match results in a plan for the placement of a child, a prospective adoptive parent of the child shall be provided the following:

(i) Information of record which formed a basis for the child profile.

(ii) Notice of the availability of adoption assistance.

(iii) Notice of the availability of postadoption services.

Comment: Under this section, it is contemplated that the department may continue to build upon the initiatives that it has in place regarding the registration of children on a statewide adoption exchange. The judicial determination referenced in paragraph (1)(i) includes a court-ordered goal change to adoption and the termination of parental rights. The information in the narrative under paragraph (1)(ii) must be accurate, personalized, protective of the child's privacy and based upon respect for the child.

§ 2718. Preplacement services.

Preplacement services shall facilitate the adjustment of both a child and a prospective adoptive family to the placement of the child in the home of the prospective adoptive family. Preplacement services include, but are not limited to, the following:

- (1) Visits between the child and the prospective adoptive family.
- (2) Preparation for the placement.

§ 2719. Postplacement services.

Postplacement services shall be offered prior to the adoption of a child. Postplacement services include, but are not limited to, the following:

- (1) Counseling.
- (2) Education regarding adoption.
- (3) Support groups.
- (4) Respite care.
- (5) Behavioral health care.
- (6) Search and reunion services.
- (7) Services received by the child when the child was in foster care.

SUBCHAPTER C

POSTADOPTION SERVICES

Sec.

2721. Applicability.

2722. Duty of department.

2723. Postadoption services.

§ 2721. Applicability.

This subchapter applies only if a child was in the custody of a county agency when the child was adopted.

§ 2722. Duty of department.

The department shall ensure the provision of postadoption services, including, but not limited to, the services set forth in this subchapter.

Comment: Under this subchapter, it is intended that all reasonable means, including current and evolving state-of-the-art technology, will be used to provide the adoption services.

§ 2723. Postadoption services.

Postadoption services include, but are not limited to, the following:

- (1) Counseling.
- (2) Education regarding adoption.
- (3) Support groups.
- (4) Respite care.
- (5) Behavioral health care.
- (6) Search and reunion services.
- (7) Services received by the child when the child was in foster care.

CHAPTER 28

ADOPTION ASSISTANCE

Subchapter

- A. General Provisions
- B. Types of Adoption Assistance
- C. Procedure Generally

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

- 2801. Purposes.
- 2802. Information on adoption assistance.
- 2803. Reimbursement to county.
- 2804. Rules and regulations.
- 2805. Agency distribution of information.
- 2806. Adoptive families not liable for certain expenses.

§ 2801. Purposes.

The purposes of this chapter are to accomplish the following:

(1) Provide adoption assistance on behalf of children who meet certain eligibility requirements and recognize that prospective adoptive parents and adoptive parents may need adoption assistance to enable them to create and foster a stable and permanent adoptive home.

(2) Enable children to experience the security of a permanent adoptive family with adoption assistance, regardless of where they live in this Commonwealth.

§ 2802. Information on adoption assistance.

The department shall publish and make available to the general public information on adoption assistance.

§ 2803. Reimbursement to county.

The department shall reimburse each county agency 100% of the cost of adoption assistance provided by the agency under this subchapter if the county agency complies with section 2113 (relating to data collection and reporting).

§ 2804. Rules and regulations.

The department shall promulgate rules and regulations necessary to implement this chapter.

§ 2805. Agency distribution of information.

Prior to the placement of a child, an agency shall provide a prospective adoptive parent and foster parent of the child information on adoption assistance, including, but not limited to, the following:

- (1) Eligibility of the child for adoption assistance.
- (2) Types of adoption assistance.
- (3) The application and approval process for adoption assistance.

§ 2806. Adoptive families not liable for certain expenses.

Notwithstanding any other provision of law, adoptive families receiving adoption assistance under this chapter are not liable for expenses under the act of June 24, 1937 (P.L.2045, No.397), known as The Support Law, or the act of October 20, 1966 (3rd Sp. Sess. P.L.96, No.6), known as the Mental Health and Mental Retardation Act of 1966, if the adopted child needs services or assistance under the Mental Health and Mental Retardation Act of 1966 or Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

SUBCHAPTER B

TYPES OF ADOPTION ASSISTANCE

Sec.

2811. Duty of department.

2812. Maintenance payments.

2813. Payment for nonrecurring adoption expenses.

2814. Medical assistance.

2815. Postadoption grants.

§ 2811. Duty of department.

The department shall ensure the provision of the types of adoption assistance set forth in this subchapter.

Comment: The applicability of the provisions concerning maintenance payments, nonrecurring adoption expenses and medical assistance follows the standard set forth in *Adoption ARC v. Department of Public Welfare*, 727 A.2d 1209 (Pa. Cmwlth. 1999), whereby a child may be eligible for adoption assistance even if the child was not placed with an adoptive family through a county agency but rather through another agency.

The applicability of the postadoption grant provisions follows the standard set forth in *Barczynski v. Department of Public Welfare*, 727 A.2d 1222 (Pa. Cmwlth. 1999) (*allocatur granted in 2000*) whereby a child may be eligible for adoption assistance even if the child is not in the legal custody of a county agency or other state-approved agency.

The advisory committee chose to wait until the Pennsylvania Supreme Court rules on the appeal of the *Barczynski* case before determining whether to expand the class of children eligible for maintenance payments, nonrecurring adoption expenses and medical assistance.

§ 2812. Maintenance payments.

(a) Applicability.--This section applies only if a child is eligible for adoption assistance under section 2821 (relating to eligibility for adoption assistance) and:

(1) is in the custody of an agency and available for adoption; or

(2) was in the custody of an agency when the child was adopted.

(b) Purpose.--Maintenance payments must provide for the support and care of the child to prevent the disruption of the permanent placement of the child.

(c) Determination.--Subject to subsection (d), the county agency which initially determined the child to be eligible for adoption assistance shall determine the amount of maintenance payments.

(d) Amount.--

(1) The amount of maintenance payments must be equal to or greater than the foster care rate which a foster parent would have received had the child been in foster care when the child either was adopted or became eligible for adoption assistance under section 2821.

(2) The payment for nonrecurring adoption expenses under section 2813 (relating to payment for nonrecurring adoption expenses) may not be considered in determining the amount of maintenance payments under this subsection.

(e) Adjustment.--Maintenance payments may not be adjusted unless:

(1) the foster care rate that was used to establish the minimum amount of maintenance payments under subsection (d)(1) increases; or

(2) the circumstances of the child, prospective adoptive parent or adoptive parent have changed significantly in relation to the terms of the adoption

assistance agreement and such parent and the county agency consent to the adjustment.

(f) Declining and reinstating maintenance payments.--A prospective adoptive parent or an adoptive parent of a child may decline maintenance payments and request reinstatement of maintenance payments at any time.

(g) Definition.--As used in this section the term “foster care rate” means the greater of the rate paid in the county of residence of the prospective adoptive parent of the child and the rate paid in the county of residence of the child.

Comment: It is the intent of subsections (d) and (f) to eliminate a \$0 adoption assistance agreement.

§ 2813. Payment for nonrecurring adoption expenses.

(a) Applicability.--This section applies only if a child is eligible for adoption assistance under section 2821 (relating to eligibility for adoption assistance) and:

- (1) is in the custody of an agency and available for adoption; or
- (2) was in the custody of an agency when the child was adopted.

(b) Types.--Nonrecurring adoption expenses include, but are not limited to, the following:

- (1) Fees for home studies and home study reports.
- (2) Fees for postplacement evaluations and postplacement reports.
- (3) Attorney fees.
- (4) Court costs.
- (5) Travel expenses, if necessary to complete the placement or adoption process.

(c) Nature.--Nonrecurring adoption expenses must be reasonable and necessary, directly related to the adoption of the child and incurred in compliance with Federal and State laws.

(d) Amount.--Nonrecurring adoption expenses may not exceed the maximum amount allowed under Federal law.

(e) Procedure.--An adoptive parent must submit all receipts for nonrecurring adoption expenses for reimbursement at the same time.

§ 2814. Medical assistance.

(a) Applicability.--This section applies only if a child is eligible for adoption assistance under section 2821 (relating to eligibility for adoption assistance) and:

- (1) is in the custody of an agency and available for adoption; or
- (2) was in the custody of an agency when the child was adopted.

(b) Provision of medical assistance.--Medical assistance for the child shall be as provided by law and the adoption assistance agreement entered under section 2823 (relating to adoption assistance agreement).

§ 2815. Postadoption grants.

(a) Applicability.--This section applies only if a child is eligible for adoption assistance under either section 2821(a)(1) and (3) or (b) (relating to eligibility for adoption assistance).

(b) Purpose.--Postadoption grants shall cover services which:

- (1) are necessary for the health, safety and welfare of a child;
- (2) are not covered by insurance or otherwise; and

(3) the adoptive parent cannot afford.

(c) Types of expenses.--Postadoption grants include, but are not limited to, payments for the following:

(1) Medical, surgical and dental care.

(2) Hospitalization.

(3) Nursing care.

(4) Respite care.

(5) Individual remedial educational services.

(6) Psychological, psychiatric, drug and alcohol and residential treatment.

(7) Speech, physical and occupational therapy.

(8) Other services, equipment, treatment and training for physical and mental handicaps.

(d) Preexisting condition.--A postadoption grant may only be provided for a child's condition which existed at the time of the child's adoption.

(e) Determination.--Subject to subsections (f) and (g), the county agency in the county where the child resides shall determine whether the child is eligible for a postadoption grant.

(f) Maintenance payments not considered.--Maintenance payments may not be considered in determining either eligibility for or the amount of a postadoption grant.

(g) Availability only after other benefits exhausted.--Public funds may not be expended under this chapter for a postadoption grant unless all available benefits

under private or Federal, State or local government programs have been exhausted.

(h) Payment.--A postadoption grant may be paid to an adoptive parent or to the vendor of the goods or services.

SUBCHAPTER C

PROCEDURE GENERALLY

Sec.

2821. Eligibility for adoption assistance.

2822. When adoption assistance provided.

2823. Adoption assistance agreement.

2824. Transfer of benefits to successor adoptive parent.

2825. Changed circumstances.

2826. Termination of adoption assistance.

2827. Administrative appeal.

2828. Special rule regarding child support.

§ 2821. Eligibility for adoption assistance.

(a) General rule.--A child is eligible to begin receiving adoption assistance if the following requirements are met:

(1) The child is under 18 years of age.

(2) If the child has not yet been adopted, all the following conditions apply:

(i) Sixty days have elapsed from the date of a judicial determination that the child cannot or should not be returned home to the parent.

(ii) Unless the child has developed a significant emotional or other tie with a prospective adoptive parent who requires adoption assistance to adopt the child, a reasonable but unsuccessful effort not to exceed 60 days

after a determination referenced in subparagraph (i) has been made to place the child with an appropriate prospective adoptive parent who will adopt the child without adoption assistance.

(3) The child has at least one of the following characteristics:

(i) A physical, mental or emotional condition, disease or handicap.

(ii) A genetic condition which indicates a high risk of developing a physical, mental or emotional condition, disease or handicap.

(iii) A history of abuse, neglect or prenatal exposure to drugs and alcohol which indicates a high risk of developing a physical, mental or emotional condition, disease or handicap.

(iv) A history of multiple placements prior to the adoptive placement.

(v) Is a member of a minority group.

(vi) Is a member of a sibling group to be adopted together.

(vii) Is five years of age or older.

(4) The child is in the custody of an agency at the time of the child's placement.

(b) Diagnosis after adoption finalized.--A child is also eligible for adoption assistance if any characteristic set forth in subsection (a)(3)(i), (ii) or (iii) was present at the time of adoption but diagnosed after the date of the final adoption decree.

(c) When denial of adoption assistance prohibited.--A child may not be denied adoption assistance because of the resources of the prospective adoptive parent or adoptive parent of the child.

Comment: Subsection (a)(2)(i) is intended to include all children, whether or not they are in the children and youth system. The judicial determination referenced in that subsection includes a court-ordered goal change to adoption and the termination of parental rights. Subsection (a)(4) reflects the holding in *Adoption ARC v. Department of Public Welfare*, 727 A.2d 1209 (Pa. Cmwlth. 1999). An agency includes both a county agency and a licensed adoption agency. Under subsection (b), there is no time limit as to when the diagnosis must be given. Under subsection (c), there is no means test to determine eligibility for adoption assistance.

§ 2822. When adoption assistance provided.

The department shall ensure the provision of adoption assistance to a person on behalf of a child if an adoption assistance agreement has been executed under section 2823 (relating to adoption assistance agreement).

§ 2823. Adoption assistance agreement.

(a) Who may execute.--Subject to subsections (b) and (c), a county agency may enter into a written adoption assistance agreement with a prospective adoptive parent of a child, an adoptive parent of a child or an individual with whom a child has been placed for adoption.

(b) Determination by county agency.--An adoption assistance agreement for a child shall be executed if a county agency determines that the child is eligible for adoption assistance under section 2821 (relating to eligibility for adoption assistance).

(c) When agreement executed.--An adoption assistance agreement shall be executed:

(1) before or when the court enters the final adoption decree with respect to the child; or

(2) if the child becomes eligible for adoption assistance after the court enters the final adoption decree with respect to the child, within 60 days after the child is determined to be eligible for adoption assistance.

(d) Contents of agreement.--An adoption assistance agreement shall:

(1) specify the type of adoption assistance to be provided on behalf of the child, including the amount of payments to be made;

(2) stipulate that the agreement remains in effect regardless of where the prospective adoptive parent or adoptive parent resides; and

(3) contain provisions for the protection of the interest of the child if the prospective adoptive parent or adoptive parent and child move to another state while the agreement is in effect.

(e) Filing of agreement.--An adoption assistance agreement shall be filed with the court which serves the county in which the county agency is located.

(f) Development of form.--The department shall develop a standardized adoption assistance agreement form.

§ 2824. Transfer of benefits to successor adoptive parent.

Notwithstanding section 2826(3) and (4) (relating to termination of adoption assistance), a child who was eligible for adoption assistance with respect to a prior

adoption continues to be eligible for adoption assistance under this subchapter if the child is available for adoption again because:

- (1) the prior adoption has been dissolved;
- (2) the parental rights of the adoptive parent of the child have been terminated under Chapter 22 (relating to termination of parental rights); or
- (3) the adoptive parent has died.

§ 2825. Changed circumstances.

(a) Notice to county agency.--A prospective adoptive parent or an adoptive parent of the child shall notify the county agency of the following:

- (1) A changed circumstance which may make the child ineligible for adoption assistance.
- (2) The fact that such parent is no longer legally and financially responsible for the child.

(b) Penalty.--A parent who fails to provide the information required under subsection (a) shall be ordered to pay restitution of any moneys received by reason of the failure to provide the information. Restitution may be paid in a lump sum, by monthly installments or according to another schedule determined by the court. Notwithstanding the provisions of 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to person or property) to the contrary, the period of time during which the parent is ordered to make restitution may exceed the maximum term of imprisonment to which the parent could have been sentenced if convicted

of a crime for accepting adoption assistance when no longer entitled to receive it if the court determines the period is reasonable and in the interests of justice.

§ 2826. Termination of adoption assistance.

Adoption assistance shall be terminated if any of the following occurs:

(1) The child:

(i) reaches 18 years of age or completes high school, whichever is later; or

(ii) reaches 21 years of age if the child is engaged in a course of instruction or the county agency determines that the child has a mental or physical handicap which warrants the continuation of adoption assistance.

(2) The child is no longer eligible for adoption assistance.

(3) The prospective adoptive parent or adoptive parent of the child no longer provides support for the child.

(4) The adoptive parent of the child is no longer legally responsible for the support of the child.

(5) The prospective adoptive parent or adoptive parent of the child requests termination of adoption assistance.

(6) The prospective adoptive parent or adoptive parent of the child fails to provide the information required under section 2825(a) (relating to changed circumstances).

§ 2827. Administrative appeal.

(a) Grounds for appeal.--The prospective adoptive parent or adoptive parent of the child has the right to request a hearing with the department to appeal the following actions of the county agency:

- (1) A determination that the child is not eligible for adoption assistance.
- (2) A denial of adoption assistance in whole or in part.
- (3) A denial of increased adoption assistance.
- (4) A reduction of adoption assistance.
- (5) A suspension of adoption assistance.
- (6) A termination of adoption assistance.
- (7) A failure to notify the prospective adoptive parent or adoptive parent of the availability of adoption assistance.
- (8) A delay in the execution of an adoption assistance agreement under section 2823(c)(2) (relating to adoption assistance agreement).

(b) Procedure.--An appeal must be filed with the department within 30 days of an action under subsection (a). The petitioner is deemed to have won the appeal if the department does not take final administrative action within 90 days of the appeal. The county agency shall comply with the terms of the adoption assistance agreement within 60 days after a successful appeal.

(c) Attorney fees and expenses.--Reasonable attorney fees and expenses shall be awarded to a petitioner who prevails in an appeal.

§ 2828. Special rule regarding child support.

If a child who is eligible for adoption assistance is placed in substitute care and an adoptive parent of the child is obligated to pay child support on behalf of the child, the amount of the child support obligation may not exceed the amount of the maintenance payment determined under section 2812(e) (relating to maintenance payments).

CONFORMING AMENDMENTS

CONFORMING AMENDMENTS TO 23 PA.C.S. PART VI (CHILDREN AND MINORS)

§ 5103. Acknowledgment and claim of paternity.

[(a) Acknowledgment of paternity.--The father of a child born to an unmarried woman may file with the Department of Public Welfare, on forms prescribed by the department, an acknowledgment of paternity of the child which shall include the consent of the mother of the child, supported by her witnessed statement subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). In such case, the father shall have all the rights and duties as to the child which he would have had if he had been married to the mother at the time of the birth of the child, and the child shall have all the rights and duties as to the father which the child would have had if the father had been married to the mother at the time of birth. The hospital or other person accepting an acknowledgment of paternity shall provide written and oral notice, which may be through the use of video or audio equipment, to the birth mother and birth father of the alternatives to, the

legal consequences of and the rights and responsibilities that arise from, signing the acknowledgment.

(b) Claim of paternity.--If the mother of the child fails or refuses to join in the acknowledgment of paternity provided for in subsection (a), the Department of Public Welfare shall index it as a claim of paternity. The filing and indexing of a claim of paternity shall not confer upon the putative father any rights as to the child except that the putative father shall be entitled to notice of any proceeding brought to terminate any parental rights as to the child.

(c) Duty of hospital or birthing center.--Upon the birth of a child to an unmarried woman, an agent of the hospital or birthing center where the birth occurred shall:

(1) Provide the newborn's birth parents with an opportunity to complete an acknowledgment of paternity. The completed, signed and witnessed acknowledgment shall be sent to the Department of Public Welfare. A copy shall be given to each of the birth parents. This acknowledgment shall contain:

(i) A signed, witnessed statement subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) by the birth mother consenting to the acknowledgment of paternity.

(ii) A signed, witnessed statement subject to 18 Pa.C.S. § 4904 by the birth father acknowledging his paternity.

(iii) A written explanation of the parental duties and parental rights which arise from signing such a statement.

(iv) The Social Security numbers and addresses of both birth parents.

(2) Provide written information, furnished by the department to the birth mother and birth father, which explains the benefits of having the child's paternity established, the availability of paternity establishment services and the availability of child support enforcement agencies.

(d) Conclusive evidence.--Notwithstanding any other provision of law, an acknowledgment of paternity shall constitute conclusive evidence of paternity without further judicial ratification in any action to establish support. The court shall give full faith and credit to an acknowledgment of paternity signed in another state according to its procedures.

(e) Transfer.--The Department of Health shall transfer to the Department of Public Welfare all acknowledgments or claims of paternity filed with the Department of Health under prior statutes.

(f) Certifications.--The Department of Public Welfare shall provide necessary certifications under Part III (relating to adoption) as to whether any acknowledgment or claim of paternity has been filed in regard to any child who is a prospective adoptive child.

(g) Rescission.--

(1) Notwithstanding any other provision of law, a signed, voluntary, witnessed acknowledgment of paternity subject to 18 Pa.C.S. § 4904 shall be considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of the following:

(i) sixty days; or

(ii) the date of an administrative or judicial proceeding relating to the child, including, but not limited to, a domestic relations section conference or a proceeding to establish a support order in which the signatory is a party.

(2) After the expiration of the 60 days, an acknowledgment of paternity may be challenged in court only on the basis of fraud, duress or material mistake of fact, which must be established by the challenger through clear and convincing evidence. An order for support shall not be suspended during the period of challenge except for good cause shown.

(h) Penalties for noncompliance.--The department may impose a civil penalty not to exceed \$500 per day upon a hospital or birthing center which is not in compliance with the provisions of this section. A penalty under this subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(i) Status of father.--The name of the father shall be included on the record of birth of the child of unmarried parents only if one of the following applies:

(1) The father and mother have signed a voluntary acknowledgment of paternity.

(2) A court or administrative agency of competent jurisdiction has issued an adjudication of paternity.]

(a) Acknowledgment of paternity.--

(1) An acknowledgment of paternity with respect to a child born to an unmarried woman may be filed with the Department of Public Welfare on a form prescribed by the department.

(2) An acknowledgment of paternity must include the following:

(i) The child's name, gender, date of birth, place of birth and Social Security number, if available.

(ii) The birth father's name, address, date of birth, place of birth and Social Security number.

(iii) The birth mother's name, address, date of birth, place of birth and Social Security number.

(iv) A witnessed statement in which the birth father acknowledges his paternity. The statement must be signed and dated by the birth father and is subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(v) A witnessed statement in which the birth mother consents to the acknowledgment of paternity. The statement must be signed and dated by the birth mother and is subject to 18 Pa.C.S. § 4904.

(vi) A written explanation of the parental rights and duties that arise from the acknowledgment of paternity.

(vii) Any other information the Department of Public Welfare requires.

(3) If an acknowledgment of paternity is filed:

(i) the birth father has all the rights and duties with respect to the child which he would have had if he had been married to the birth mother when the child was born; and

(ii) the child has all the rights and duties with respect to the birth father which the child would have had if the birth father had been married to the birth mother when the child was born.

(4) Notwithstanding any other provision of law, an acknowledgment of paternity constitutes conclusive evidence of paternity without further judicial ratification in an action for support. The court shall give full faith and credit to an acknowledgment of paternity signed in another state according to its procedures.

(5) Notwithstanding any other provision of law, an acknowledgment of paternity shall be considered a legal finding of paternity.

(6) A birth father or birth mother may rescind an acknowledgment of paternity before the earlier of the following dates:

(i) the 60th day after the acknowledgment is filed; or

(ii) the date of an administrative or a judicial proceeding relating to the child, including, but not limited to, a domestic relations section conference or a proceeding to establish a support order in which the rescinding birth parent is a party.

(7) If a birth father or birth mother does not rescind an acknowledgment of paternity under paragraph (6), the validity of the acknowledgment may be challenged only on the basis of fraud, duress or material mistake of fact, which must be proven by clear and convincing evidence. Except for good cause shown, an order for support may not be suspended while the validity of the acknowledgment is being challenged.

(8) The birth father and birth mother shall be given a copy of the completed acknowledgment of paternity.

(b) Claim of paternity.--

(1) If the birth mother of a child fails or refuses to join in the acknowledgement of paternity under subsection (a), a man claiming to be the father of the child may file a claim of paternity with the Department of Public Welfare on a form prescribed by the department.

(2) The filing of a claim of paternity does not confer upon the man filing the claim any parental rights with respect to the child, except that he is entitled to notice of a proceeding for termination of parental rights under Chapter 22 (relating to termination of parental rights) with respect to the child.

(3) A claim of paternity may be filed before or after the birth of the child.

(4) A claim of paternity must include the following:

(i) The name, gender, date of birth, place of birth and Social Security number of the child, if known by the man filing the claim.

(ii) The name, address, date of birth, place of birth and Social Security number of the man filing the claim.

(iii) The name, address, date of birth, place of birth and Social Security number of the birth mother, if known by the man filing the claim.

(iv) A witnessed statement in which the man filing the claim claims to be the father of the child. The statement must be signed and dated by the man filing the claim and is subject to 18 Pa.C.S. § 4904.

(v) A written explanation of the parental rights and duties that arise upon a determination of paternity.

(vi) Any other information the Department of Public Welfare requires.

(5) The man filing the claim of paternity shall be given a copy of the completed claim of paternity.

(c) Update of information.--A birth father under subsection (a) or a man filing a claim of paternity under subsection (b) is responsible for updating the information filed with his acknowledgment of paternity or claim of paternity. The Department of Public Welfare does not have an independent obligation to update the information in the registries for acknowledgments of paternity and claims of paternity.

(d) Duties of hospital or birthing center.--Upon the birth of a child to an unmarried woman, an agent of the hospital or birthing center where the child was born shall perform the following duties:

(1) Provide and explain the informational materials developed under subsection (f)(1) to the birth father and birth mother.

(2) Provide the birth father and birth mother with an opportunity to complete an acknowledgment of paternity.

(3) Provide a copy of the completed acknowledgment of paternity to the birth father and birth mother.

(4) Send each completed acknowledgment of paternity to the Department of Public Welfare.

(e) Penalties for noncompliance.--The Department of Public Welfare may impose a civil penalty not to exceed \$500 per day upon a hospital or birthing center which is not in compliance with the provisions of subsection (d). A penalty under this subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(f) Duties of Department of Public Welfare.--The Department of Public Welfare shall perform the following duties:

(1) Develop written informational material regarding the following:

(i) The benefits of establishing a child's paternity.

(ii) The alternatives to and legal consequences of signing an acknowledgment of paternity.

(iii) The parental rights and duties that arise from an acknowledgment of paternity.

(iv) The availability of paternity establishment services.

(v) The availability of child support enforcement agencies.

(vi) The availability and purpose of filing a claim of paternity.

(2) Distribute the informational materials developed under paragraph (1) to hospitals and birthing centers and to any person upon request.

(3) Publicize the availability and purpose of filing acknowledgments of paternity and claims of paternity.

(4) Develop an acknowledgment of paternity form and a claim of paternity form and distribute the forms to hospitals and birthing centers and to any person upon request.

(5) Maintain a registry for acknowledgments of paternity, which shall be indexed by the following:

(i) Name of the child.

(ii) Date of birth of the child.

(iii) Name of the birth father.

(iv) Name of the birth mother.

(6) Maintain a registry for claims of paternity, which shall be indexed by the following:

(i) Name of the child.

(ii) Date of birth or anticipated date of birth of the child.

(iii) Name of the man filing the claim.

(iv) Name of the birth mother.

(7) Provide certifications under Chapter 22 regarding whether an acknowledgment of paternity or a claim of paternity has been filed with respect to the child in a proceeding to terminate parental rights.

(g) Status of father.--The name of the father shall be included on the record of birth of a child born to an unmarried woman only if one of the following applies:

(1) The birth father and birth mother have signed an acknowledgment of paternity.

(2) A court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Comment: This section is based on former section 5103, reorganized and expanded. Former subsection (e), regarding the transfer of acknowledgments and claims of paternity from the Department of Health to the Department of Public Welfare, is omitted as it was a transitional provision. The explanation under subsection (d)(1) may be made through the use of video or audio equipment.

**SAMPLE VOLUNTARY
RELINQUISHMENT FORM**

The purpose of this form is to relinquish forever all your parental rights with respect to the child named in this form.

PART ONE. Please complete the following information.

(1) Name of the child (if known):

.....

(2) Address of the child (if known):

(3) Actual or expected date of birth of the child:

(4) Name and address of the birth mother of the child (if known and her parental rights with respect to the child have not already been terminated):

(5) Name and address of the birth father of the child (if known and his parental rights with respect to the child have not already been terminated):

(6) Name and address of the presumptive father of the child (if known and his parental rights with respect to the child have not already been terminated):
(If more than one presumptive father, use the back of this form)
(See Note 1 on the last page of this form for the definition of presumptive father)

(7) Name and address of the putative father of the child (if known and his parental rights with respect to the child have not already been terminated):
(If more than one putative father, use the back of this form)
(See Note 2 on the last page of this form for the definition of putative father)

(8) Your name and address:

(9) Your relationship to the child:

(10) Your age and date of birth:

(11) If you are under 18 years of age, you must either provide the requested information in (A) or attend the special hearing described in (B).

(A) Name and address of your parent or legal guardian:

(B) If you do not provide the name and address of your parent or legal guardian in (A), the court will hold a hearing to review the contents of this form and determine whether you understand the contents of this form and the purpose of voluntary relinquishment.

(12) CHECK ONE:

- The child is in the care of another individual who is a parent of the child.
- The child is in the care of an agency.
- An agency has received written notice of my present intent to transfer custody of the child to the agency, even though the agency does not have physical custody of the child at this time.
- The child is in the exclusive care of an individual who intends to adopt the child.

(13) List any money or other valuable consideration that you received or expect to receive in connection with the placement and adoption of the child. Indicate the specific reason for which the money or valuable consideration was received or will be received (for example, for medical expenses and living expenses). Use the back of this form if necessary.

PART TWO. By signing this voluntary relinquishment form, you are agreeing to the following statements.

I hereby voluntarily consent to relinquish forever all my parental rights with respect to the child.

I am not under the influence of any alcohol, drug or controlled substance which may impair my ability to understand and execute this voluntary relinquishment form.

I understand that the child may be placed for adoption. If I am a parent of the child, I understand that I may designate an individual to adopt the child. If the child is not adopted by that individual, I understand that I will be given notice of that fact and my ability to file a petition to vacate both my voluntary relinquishment and the decree of termination of parental rights. I understand that I must file the petition within ten days of service of that notice with the court of the county in which the petition for voluntary relinquishment of parental rights was or will be filed (with the following name and address)

If I file a timely petition, I understand that the court will vacate both my voluntary relinquishment and the decree of termination of parental rights, restore my parental rights and duties and enter an order regarding the custody of the child. If I do not file a timely petition, I understand that the child may be adopted by another individual without additional notice to me.

I understand that I may place and update medical history information and social history information on a form provided by the Department of Public Welfare.

I understand that, if I am a birth parent of the child, I may file a disclosure veto with the agency coordinating the adoption (with the following name and address)

or with the court of the county in which the termination of parental rights will occur (with the following name and address, if known)

I understand that, unless I file this disclosure veto, my identity and other identifying information found in the court records or agency records will be given upon request to an adoptive parent of the child if the child is under 18 years of age or to the child if the child is 18 years of age or older.

I understand that the information on the original birth certificate of the child, including information about a birth parent, will be given upon request to an adoptive parent of the child, if the child is under 18 years of age or to the child if the child is 18 years of age or older.

I understand that I have the right to receive at least one counseling session, paid by the county, regarding the risks, benefits and consequences of relinquishing my parental rights with respect to the child, placing the child for adoption and alternatives to relinquishment and adoption.

I confirm that at this time I do not wish to receive any counseling or any additional counseling regarding the risks, benefits and consequences of

relinquishing my parental rights with respect to the child, placing the child for adoption and alternatives to relinquishment and adoption.

I understand that I may request a hearing on my voluntary relinquishment, during which time the court will review the contents of this voluntary relinquishment form with me. I understand that if I request a hearing on my voluntary relinquishment, I may revoke my voluntary relinquishment at any time prior to the entry of the final decree terminating my parental rights with respect to the child. I understand that the court may enter a final decree terminating my parental rights with respect to the child at the hearing, at which point my voluntary relinquishment may not be revoked. I further understand that, if I request a hearing but do not attend it, my voluntary relinquishment automatically becomes irrevocable at the time of the hearing, and the court may enter a final decree terminating my parental rights with respect to the child at that time.

If I do not request a hearing on my voluntary relinquishment and I am the birth mother of the child or an individual other than the birth father or a presumptive father or putative father of the child, I understand that this voluntary relinquishment form is irrevocable unless I revoke it within 20 days after executing it by delivering a written revocation to the agency coordinating the adoption (with the following name and address)

or an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child (with the following name and address, and if more than one such attorney, use the back of this form)

or the court of the county in which the voluntary relinquishment form was or will be filed (with the following name and address)

If I do not request a hearing on my voluntary relinquishment and I am the birth father or a presumptive father or putative father of the child, I understand that this voluntary relinquishment form is irrevocable unless I revoke it within 20 days after either the birth of the child or my execution of the voluntary relinquishment form, whichever occurs later, by delivering a written revocation to the agency coordinating the adoption (with the following name and address)

or an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child (with the following name and address, and if more than one such attorney, use the back of this form)

or the court of the county in which the voluntary relinquishment form was or will be filed (with the following name and address)

If I do not request a hearing on my voluntary relinquishment, I understand that I will not receive further notice of any proceeding for termination of parental rights or adoption regarding the child, unless I designate an individual to adopt the child and the child is not adopted by the individual.

If I am under 18 years of age, I understand that I must either provide the name and address of my parent or legal guardian or attend a hearing where the court will review the contents of this voluntary relinquishment form. If the hearing is necessary, I understand that the court will determine whether I understand the purpose of the voluntary relinquishment and the contents of this voluntary relinquishment form. At the hearing, I understand that the court will decide whether to allow the voluntary relinquishment process to continue. If I provide the name and address of my parent or legal guardian and do not request a hearing on my voluntary relinquishment, I understand that my parent or legal guardian will be given notice that I have signed this voluntary relinquishment form.

I have read or had explained to me this voluntary relinquishment form, and I understand the contents and purpose of this voluntary relinquishment form.

I understand that I may consult an attorney of my own choosing before I sign this voluntary relinquishment form. If I cannot afford an attorney, I understand that I may go to or telephone the local legal services office (with the following name and address)

I am signing this voluntary relinquishment form as a free and voluntary act.

I have received a copy of this voluntary relinquishment form.

The information that I have provided in this voluntary relinquishment form is true and correct to the best of my knowledge, information and belief. I understand that any false statement made in this voluntary relinquishment form is subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

PART THREE. If you are a parent of the child, you may designate an individual to adopt the child. Your rights regarding this designation are explained more fully in the third paragraph of Part Two of this voluntary relinquishment form. If you want to make this designation, please provide the name and address of the individual.

PART FOUR. You are also given notice of the following.

When you are presented this voluntary relinquishment form to sign, you should be given a form developed by the Department of Public Welfare and asked to provide medical history information and social history information. However, the voluntary relinquishment will not be invalidated solely because you are not asked to provide or you fail to provide this medical history information and social history information.

PART FIVE. You must decide whether you want a hearing on your voluntary relinquishment, during which time the court will review the contents of this voluntary relinquishment form with you.

CHECK ONE:

- I request a hearing on my voluntary relinquishment.
 I do not want a hearing on my voluntary relinquishment.

NOTE: If you do not check either line, it is presumed that you do not want a hearing on your voluntary relinquishment.

PART SIX. If you agree to and understand the foregoing provisions, you must complete this part.

SIGNATURE: _____

DATE: _____

PLACE WHERE THIS FORM WAS SIGNED:

PART SEVEN. This form must be witnessed by two individuals who are 18 years of age or older.

The undersigned witnesses affirm that they are 18 years of age or older, you are indeed the individual whom you claim to be and you are signing this voluntary relinquishment form in their presence as a free and voluntary act.

SIGNATURE of Witness 1: _____

NAME AND ADDRESS of Witness 1:

SIGNATURE of Witness 2: _____

NAME AND ADDRESS of Witness 2:

PART EIGHT. You are hereby notified of the following.

(Note that this list of statements may be attached as a separate document to this voluntary relinquishment form.)

(1) A birth parent of an adoptee may at any time add medical history information or social history information to the court records for the benefit of the adoptee.

(2) A birth parent of an adoptee may at any time file and update medical history information and social history information with the registry established by the Department of Public Welfare by using a form developed by the department.

(3) A birth parent of an adoptee may ask the court to request medical history information or social history information relating to the adoptee.

(4) An adoptive parent of an adoptee may at any time add medical history information or social history information to the court records for the benefit of a birth parent of the adoptee.

(5) An adoptive parent of an adoptee may access medical history information and social history information filed by a birth parent of the adoptee with the registry established by the Department of Public Welfare.

(6) An adoptive parent of an adoptee may ask the court to request medical history information or social history information relating to a birth parent of the adoptee.

(7) A birth parent and an adoptive parent of an adoptee should provide a current address to the court to ensure receipt of medical history information or social history information from the court.

(8) The information on an adoptee's original certificate of birth, including information about a birth parent, will be given upon request to the adoptee or an adoptive parent of the adoptee.

(9) A birth parent's identifying information found in the court records or agency records will be given upon request to the adoptee or an adoptive parent of the adoptee, unless that birth parent has filed a disclosure veto with the court or agency.

PART NINE. This voluntary relinquishment form may be, but is not required to be, notarized. If this form is not notarized, your identity as the individual executing this form must be confirmed at a hearing.

Subscribed, sworn to or affirmed, and acknowledged before me by the aforementioned individual executing this voluntary relinquishment form and the

by aforementioned witnesses on the _____ day of _____,
20_____.

NOTARY PUBLIC

SEAL:

PART TEN. You have the ability to revoke this voluntary relinquishment, as explained previously in this form. The revocation does not need to be notarized. You may revoke the voluntary relinquishment by signing this form below the following statement, but the revocation is effective only if you comply with Pennsylvania law as explained previously in Part Two of this voluntary relinquishment form.

I revoke the foregoing voluntary relinquishment and do not wish to voluntarily relinquish my parental rights with respect to the child.

SIGNATURE: _____

DATE: _____

* * *

You must be given a copy of this voluntary relinquishment form.

Note 1. A presumptive father is defined as a man, including one less than 18 years of age, who is married to the birth mother when the child is born, was married to the birth mother within 300 days prior to the date of birth of the child or has filed an acknowledgment of paternity with the Pennsylvania Department of Public Welfare.

Note 2. A putative father is defined as a man, including one less than 18 years of age, who has filed a claim of paternity with the Pennsylvania Department of Public Welfare, has registered in another state with a registry for men who claim to be the father of a child, has filed an action to determine paternity and who claims to be the father of the child, has filed an action for custody of the child and who claims to be the father of the child, has paid or promised to pay support to the birth mother as a result of her pregnancy and the birth of the child and who claims to be the father of the child, or is identified as the birth father by the birth mother, such as in the case where the birth mother files an action for child support against a man.

SOURCE NOTES FOR THE SAMPLE VOLUNTARY RELINQUISHMENT FORM

All referenced sections are to 23 Pa.C.S.

PART ONE.

- (1) See § 2216(a)(1).
- (2) See § 2216(a)(1).
- (3) See § 2216(a)(2).
- (4) See § 2216(a)(3).
- (5) See § 2216(a)(3).
- (6) See § 2216(a)(3).
- (7) See § 2216(a)(3).
- (8) See § 2216(a)(4).
- (9) See § 2216(a)(5).
- (10) See § 2216(a)(6).
- (11) See § 2216(a)(7) and § 2222.
- (12) See § 2216(a)(8) and § 2214(a).
- (13) See § 2216(a)(9).

PART TWO. See § 2216(a)(10) and § 2216(b).

PART THREE. See § 2216(a)(11) and § 2213.

PART FOUR. See § 2215(a).

PART FIVE. See § 2216(a)(12) and § 2223.

PART SIX. See § 2216(a)(13) and (14).

PART SEVEN. See § 2216(a)(15).

PART EIGHT. See § 2216(a)(16) and § 2204(a).

PART NINE. See § 2216(c) and § 2224.

PART TEN. See § 2216(a)(17) and § 2218.

FINAL STATEMENT ON THE FORM (“You must be given a copy of this
voluntary relinquishment form.”).
See § 2215(b).

NOTE 1. See § 2103 (definition of presumptive father).

NOTE 2. See § 2103 (definition of putative father).

DETAILED TABLE OF CONTENTS FOR THE PROPOSED ADOPTION ACT

DOMESTIC RELATIONS Title 23 PART III ADOPTION

Chapter

- 21. General Provisions
- 22. Termination of Parental Rights
- 23. Placement of Children
- 24. Prohibited and Permissible Payments and Activities
- 25. Adoption Proceedings
- 26. Records and Access to Information
- 27. Adoption Services
- 28. Adoption Assistance

CHAPTER 21 GENERAL PROVISIONS

Sec.

- 2101. Short title of part.
- 2102. Purpose.
- 2103. Definitions.
- 2104. Jurisdiction.
- 2105. Venue.
- 2106. Who may be adopted.
- 2107. Who may adopt.
- 2108. Counseling.
 - (a) Purpose of counseling.
 - (b) Right to counseling.
 - (c) Compilation of list.
 - (d) Distribution of list.
 - (e) Notice of availability of list.

- (f) Referral for counseling.
 - (g) Counseling fund.
 - (h) Additional counseling.
 - (i) Designation by county.
2109. Representation.
- (a) Child.
 - (b) Parent.
 - (c) Payment of costs.
 - (d) Conflict of interest.
2110. Religious belief.
2111. Governing law.
- (a) Interstate placement.
 - (b) Intercountry placement.
2112. Agreement for continuing contact.
- (a) Who may enter agreement.
 - (b) Filing of agreement.
 - (c) Modification of agreement.
 - (d) Enforcement of agreement.
 - (e) Failure to comply.
2113. Data collection and reporting.
- (a) Establishment of system.
 - (b) Purpose of system.
 - (c) Annual report.
 - (d) Information from court.
 - (e) Cooperation by agency.
 - (f) Information from county agency.
 - (g) Rules and regulations.
2114. Adoption of individuals 18 years of age or older.
- (a) Requirements for adoption.
 - (b) Procedures necessary for adoption.

CHAPTER 22 TERMINATION OF PARENTAL RIGHTS

Subchapter

- A. General Provisions
- B. Voluntary Relinquishment of Parental Rights
- C. Involuntary Termination of Parental Rights
- D. Effect of Decree of Termination of Parental Rights

SUBCHAPTER A
GENERAL PROVISIONS

- Sec.
- 2201. How to terminate parental rights.
 - 2202. Search of registry for fathers.
 - (a) Determination and certification by Commonwealth.
 - (b) Determination and certification by another state.
 - (c) Notice.
 - 2203. Hearing for putative father.
 - (a) When hearing required.
 - (b) Notice of hearing.
 - (c) Procedure for hearing.
 - (d) Court determination.
 - 2204. Notice of rights and duties of birth parent and adoptive parent.
 - (a) Contents of notice.
 - (b) Providing notice.
 - (c) Providing medical and social history information form.
 - 2205. When no right to notice of adoption proceeding.
 - 2206. Authority of agency or individual receiving custody.
 - 2207. Identity of prospective adoptive parent.

SUBCHAPTER B
VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS

- Sec.
- 2211. Petition for voluntary relinquishment.
 - (a) Petition required.
 - (b) Attachments to petition.
 - (c) Birth father not identified in voluntary relinquishment form.
 - 2212. Ability to voluntarily relinquish parental rights.
 - 2213. Designation of individual to adopt child.
 - (a) Designation on voluntary relinquishment form.
 - (b) Adoption not finalized.
 - (c) Notice.
 - (d) Action by court.
 - 2214. Execution of voluntary relinquishment form.
 - (a) General rule.
 - (b) Birth mother.
 - (c) Birth father, presumptive father and putative father.
 - 2215. Requirements when voluntary relinquishment form executed.
 - (a) Request for medical and social history information.
 - (b) Copy of voluntary relinquishment form.
 - 2216. Contents of voluntary relinquishment form.
 - (a) General information to be included.

- (b) Specific statements to be included.
- (c) Notarization option.
- 2217. Validity of voluntary relinquishment.
- 2218. Revocation of voluntary relinquishment.
 - (a) General rule.
 - (b) Waiver of revocation period prohibited.
 - (c) How to revoke voluntary relinquishment.
 - (d) Where to deliver revocation.
 - (e) Need to file revocation with court.
 - (f) Fraud or duress.
 - (g) Revocation if hearing on voluntary relinquishment requested.
 - (h) Revocation if hearing requested for individual under 18 years of age.
- 2219. Voluntary relinquishment form executed outside Commonwealth.
 - (a) General rule.
 - (b) Irrevocability.
- 2220. Consents by others regarding relinquishment.
 - (a) Parent or legal guardian of individual under 18 years of age.
 - (b) Agency.
 - (c) Individual intending to adopt child.
- 2221. Notice to parent or legal guardian of individual under 18 years of age.
 - (a) Applicability.
 - (b) Notice.
- 2222. Hearing for individual under 18 years of age.
 - (a) Applicability.
 - (b) Expedited hearing.
 - (c) Procedure for hearing.
 - (d) Court determination.
- 2223. Hearing on voluntary relinquishment.
 - (a) Request for hearing.
 - (b) Timing of hearing.
 - (c) Notice of hearing.
 - (d) Procedure for hearing.
- 2224. Hearing to confirm identity.
 - (a) Applicability.
 - (b) Hearing.
- 2225. Final decree of termination of parental rights.
 - (a) When final decree may be entered.
 - (b) Putative father.
 - (c) Award of custody.

SUBCHAPTER C
INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

- Sec.
- 2231. Who may file petition for involuntary termination.
 - 2232. Contents of petition for involuntary termination.
 - (a) General rule.
 - (b) Agency as petitioner.
 - 2233. Grounds for involuntary termination.
 - 2234. Notice of hearing on involuntary termination.
 - (a) Scheduling.
 - (b) Notice of hearing.
 - 2235. Hearing on involuntary termination.
 - (a) Private hearing discretionary.
 - (b) Objection by man claiming to be father.
 - (c) Mother competent witness on paternity.
 - 2236. Court determination.
 - (a) Grounds.
 - (b) Best interests.
 - (c) Considerations.
 - 2237. Final decree of termination of parental rights.
 - (a) Determination whether to grant decree.
 - (b) Putative father.
 - (c) Award of custody.

SUBCHAPTER D
EFFECT OF DECREE OF TERMINATION OF PARENTAL RIGHTS

- Sec.
- 2241. Termination of parental rights and duties.
 - (a) General rule.
 - (b) Arrearages for child support.
 - 2242. Vested rights and benefits.
 - 2243. Termination of rights and duties of child.

CHAPTER 23
PLACEMENT OF CHILDREN

- Subchapter
- A. General Provisions
 - B. Placement Generally
 - C. Home Study
 - D. Postplacement Evaluation
 - E. Background on Child

SUBCHAPTER A
GENERAL PROVISIONS

- Sec.
- 2301. Who may conduct home study and postplacement evaluation.
 - (a) General rule.
 - (b) Rules and regulations.
 - 2302. List of qualified agencies and individuals.
 - (a) Compilation of list.
 - (b) Distribution of list.
 - 2303. Update of information.
 - 2304. Additional home study, postplacement evaluation or report.
 - 2305. Fees.
 - 2306. Background checks on stepparent.

SUBCHAPTER B
PLACEMENT GENERALLY

- Sec.
- 2311. Placement with prospective adoptive parent.
 - (a) General rule.
 - (b) Placement if home study not commenced or report not timely.
 - (c) Placement if home study commenced but report not completed.
 - 2312. Assent regarding placement.
 - (a) Applicability.
 - (b) General rule.
 - (c) Filing assent with court.
 - (d) Decision not to file assent with court.
 - (e) Withdrawal of assent.
 - (f) Action by court.
 - 2313. Factors affecting placement.

SUBCHAPTER C
HOME STUDY

- Sec.
- 2321. When home study required.
 - 2322. Meetings necessary for home study.
 - (a) Who must attend meeting.
 - (b) Location of meeting.
 - 2323. Information to be gathered for home study.
 - (a) Information from prospective adoptive parent.
 - (b) Other information.
 - 2324. Home study report.

- (a) Preparation of home study report.
 - (b) Contents of home study report.
 - (c) Copy of home study report.
 - (d) Retention of home study report and notes.
2325. Judicial review.
- (a) Grounds for appeal.
 - (b) Requirements for appeal.
 - (c) Hearing on appeal.
2326. Registry regarding home studies.
- (a) Establishment of registry.
 - (b) Retention of information in registry.
 - (c) Development of form.
 - (d) Filing of information with registry.
 - (e) Releasing information from registry.
2327. Rules and regulations.

SUBCHAPTER D POSTPLACEMENT EVALUATION

- Sec.
2331. When postplacement evaluation required.
2332. Review of child placement.
2333. Meetings necessary for postplacement evaluation.
- (a) Number of postplacement meetings.
 - (b) Nature of postplacement meetings.
 - (c) Timing of postplacement meetings.
2334. Information to be gathered for postplacement evaluation.
2335. Postplacement report.
- (a) Preparation of postplacement report.
 - (b) Contents of postplacement report.
 - (c) Copy of postplacement report.

SUBCHAPTER E BACKGROUND ON CHILD

- Sec.
2341. Preplacement full and fair disclosure.
2342. Prefinalization written report.
- (a) Information to be provided.
 - (b) Supplemental written report.
 - (c) When written report not required.
 - (d) Identity of preparer of report.
 - (e) Confidentiality.
 - (f) Filing report with court.

- 2343. Providing information to preparer of report.
- 2344. Development of forms.

CHAPTER 24
PROHIBITED AND PERMISSIBLE PAYMENTS AND ACTIVITIES

Sec.

- 2401. Payment for facilitating placement prohibited.
- 2402. Permissible payments.
 - (a) Specific expenses and costs which may be paid.
 - (b) When specific expenses and costs incurred.
 - (c) Who may pay specific expenses and costs.
- 2403. When acceptance of money or other valuable consideration prohibited.
 - (a) Violation by parent.
 - (b) Entitlement to recovery.
- 2404. Reimbursement not condition for return of child.

CHAPTER 25
ADOPTION PROCEEDINGS

Subchapter

- A. Petition for Adoption
- B. Consent to Adoption
- C. Adoption Hearing
- D. Adoption Decree

SUBCHAPTER A
PETITION FOR ADOPTION

Sec.

- 2501. Who may file petition for adoption.
- 2502. Contents of petition for adoption.
 - (a) Necessary information.
 - (b) Information not available when petition for adoption filed.
- 2503. When to file petition for adoption.
- 2504. Fee for counseling fund.
 - (a) General rule.
 - (b) Exception.
- 2505. Withdrawal or dismissal of petition for adoption.

SUBCHAPTER B
CONSENT TO ADOPTION

Sec.

- 2511. When consent to adoption required.

- 2512. When consent to adoption may be required.
- 2513. When consent to adoption not required.
- 2514. Contents of consent to adoption.

SUBCHAPTER C ADOPTION HEARING

Sec.

- 2521. Scheduling of adoption hearing.
- 2522. Notice of adoption hearing.
- 2523. Procedure for adoption hearing.
 - (a) Private hearing discretionary.
 - (b) Attendance at adoption hearing.
 - (c) Testimony.
 - (d) Objection by man claiming to be father.
- 2524. Financial disclosure by prospective adoptive parents.
 - (a) Itemized accounting required.
 - (b) Verification required.
- 2525. Investigation.
 - (a) Need to verify information.
 - (b) Payment of costs.

SUBCHAPTER D ADOPTION DECREE

Sec.

- 2531. Basis of adoption decree.
- 2532. When adoption decree may be entered.
- 2533. Name of adoptee.
- 2534. Effect of adoption decree.
 - (a) Rights and duties.
 - (b) Retention of parental status.
- 2535. Challenge to adoption decree.
- 2536. Notice to birth parents outside Commonwealth.

CHAPTER 26 RECORDS AND ACCESS TO INFORMATION

Subchapter

- A. General Provisions
- B. Records Generally
- C. Registry for Medical and Social History Information
- D. Nonidentifying Information in Court and Agency Records
- E. Identifying Information in Court and Agency Records

- F. Search
- G. Information from Original Certificate of Birth

SUBCHAPTER A
GENERAL PROVISIONS

- Sec.
- 2601. Definitions.
- 2602. Combined request for information.
- 2603. Reasonable fees.
- 2604. Immunity from liability.
 - (a) General rule.
 - (b) Presumption of good faith.
- 2605. Authorized representative qualification.

SUBCHAPTER B
RECORDS GENERALLY

- Sec.
- 2611. Retention of court and agency records.
- 2612. Court records.
 - (a) Inspection of court records.
 - (b) Reports concerning placement of children.
 - (c) Who may access court records.
- 2613. Agency records.
 - (a) Prohibition against destroying agency records.
 - (b) Forwarding records to department.
 - (c) Duties of department.
- 2614. Attorney records.

SUBCHAPTER C
REGISTRY FOR MEDICAL AND
SOCIAL HISTORY INFORMATION

- Sec.
- 2621. Establishment of registry.
- 2622. Retention of information in registry.
- 2623. Development of form.
- 2624. Informational material.
- 2625. Filing information with registry.
- 2626. Who may request information from registry.
- 2627. Providing information from registry.
 - (a) When information to be provided.
 - (b) Editing information.

2628. Rules and regulations.

SUBCHAPTER D
NONIDENTIFYING INFORMATION IN
COURT AND AGENCY RECORDS

Sec.

2631. Requesting and furnishing nonidentifying information.
- (a) Who may request.
 - (b) Notice of availability of records.
 - (c) Furnishing nonidentifying information.
2632. Adding medical and social history information to court records.
- (a) Information for benefit of birth relatives.
 - (b) Information for benefit of adoptee.
 - (c) Statement made part of record.
 - (d) Forwarding statement.
2633. Notice of filing of medical and social history information with court.
- (a) Information filed for benefit of birth relatives.
 - (b) Information filed for benefit of adoptee.
 - (c) Where to send notice.
2634. Request for medical and social history information from court.
2635. Providing medical and social history information from court records.
- (a) When information to be provided.
 - (b) Editing information.
2636. Expedited procedure when cause shown.
- (a) General rule.
 - (b) When search required.
2637. Request to provide medical and social history information through court.
- (a) Request for benefit of adoptee.
 - (b) Request for benefit of birth parent.
 - (c) Forwarding request.
 - (d) Procedure for court which finalized adoption.
2638. Withdrawal of medical and social history information from court records.

SUBCHAPTER E
IDENTIFYING INFORMATION IN
COURT AND AGENCY RECORDS

Sec.

2641. Request for identifying information.
- (a) Who may request.
 - (b) Whose information may be requested.
 - (c) Notice of availability of records.
 - (d) Review of records.

- (e) When search required.
- 2642. Disclosure of identifying information.
 - (a) Authorization of disclosure.
 - (b) Disclosure veto.
 - (c) Deceased or incapacitated birth parent.
 - (d) Disclosure for only one birth parent.
 - (e) Withdrawal of authorization of disclosure or disclosure veto.
- 2643. Unsuccessful search for birth parent.
 - (a) Applicability.
 - (b) Report to court.
 - (c) Action by court.

SUBCHAPTER F SEARCH

- Sec.
- 2651. Purposes of search.
- 2652. Who may conduct search.
- 2653. Search process.
- 2654. Confidentiality.
 - (a) General rule.
 - (b) When inquiry not mandatory.
- 2655. Requirements if agency declines to search.
- 2656. Rules and regulations.

SUBCHAPTER G INFORMATION FROM ORIGINAL CERTIFICATE OF BIRTH

- Sec.
- 2661. Disclosure of information generally.
- 2662. Disclosure if adoption decree entered before (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section).
 - (a) Authorization of disclosure.
 - (b) Disclosure of information.
 - (c) Special rules for disclosure.
 - (d) Withdrawal of authorization.
- 2663. Disclosure if adoption decree entered on or after (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section).

CHAPTER 27
ADOPTION SERVICES

Subchapter

- A. General Provisions
- B. Preadoption Services
- C. Postadoption Services

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

- 2701. Purposes.
- 2702. Definition.
- 2703. Fees.
- 2704. Services if placement outside Commonwealth.
- 2705. Rules and regulations.
- 2706. Annual report.
- 2707. Audit.

SUBCHAPTER B
PREADOPTIION SERVICES

Sec.

- 2711. Applicability.
- 2712. Duty of department.
- 2713. Recruitment.
 - (a) Diligent efforts.
 - (b) Mandatory elements of recruitment.
- 2714. Dissemination of information.
- 2715. Family education and preparation.
- 2716. Child assessment, education and preparation.
- 2717. Matching services.
- 2718. Preplacement services.
- 2719. Postplacement services.

SUBCHAPTER C
POSTADOPTION SERVICES

Sec.

- 2721. Applicability.
- 2722. Duty of department.
- 2723. Postadoption services.

CHAPTER 28
ADOPTION ASSISTANCE

Subchapter

- A. General Provisions
- B. Types of Adoption Assistance
- C. Procedure Generally

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

- 2801. Purposes.
- 2802. Information on adoption assistance.
- 2803. Reimbursement to county.
- 2804. Rules and regulations.
- 2805. Agency distribution of information.
- 2806. Adoptive families not liable for certain expenses.

SUBCHAPTER B
TYPES OF ADOPTION ASSISTANCE

Sec.

- 2811. Duty of department.
- 2812. Maintenance payments.
 - (a) Applicability.
 - (b) Purpose.
 - (c) Determination.
 - (d) Amount.
 - (e) Adjustment.
 - (f) Declining and reinstating maintenance payments.
 - (g) Definition.
- 2813. Payment for nonrecurring adoption expenses.
 - (a) Applicability.
 - (b) Types.
 - (c) Nature.
 - (d) Amount.
 - (e) Procedure.
- 2814. Medical assistance.
 - (a) Applicability.
 - (b) Provision of medical assistance.
- 2815. Postadoption grants.
 - (a) Applicability.
 - (b) Purpose.

- (c) Types of expenses.
- (d) Preexisting condition.
- (e) Determination.
- (f) Maintenance payments not considered.
- (g) Availability only after other benefits exhausted.
- (h) Payment.

SUBCHAPTER C
PROCEDURE GENERALLY

Sec.

- 2821. Eligibility for adoption assistance.
 - (a) General rule.
 - (b) Diagnosis after adoption finalized.
 - (c) When denial of adoption assistance prohibited.
- 2822. When adoption assistance provided.
- 2823. Adoption assistance agreement.
 - (a) Who may execute.
 - (b) Determination by county agency.
 - (c) When agreement executed.
 - (d) Contents of agreement.
 - (e) Filing of agreement.
 - (f) Development of form.
- 2824. Transfer of benefits to successor adoptive parent.
- 2825. Changed circumstances.
 - (a) Notice to county agency.
 - (b) Penalty.
- 2826. Termination of adoption assistance.
- 2827. Administrative appeal.
 - (a) Grounds for appeal.
 - (b) Procedure.
 - (c) Attorney fees and expenses.
- 2828. Special rule regarding child support.

DUTIES OF THE DEPARTMENT OF PUBLIC WELFARE UNDER THE PROPOSED ADOPTION ACT

- Establish a statewide data collection and reporting system for nonidentifying statistical information regarding adoptions. (§ 2113(a))
- Submit to the General Assembly, the Governor and the Supreme Court Administrator's Office an annual report which includes the total number of children receiving adoption assistance, the number of children receiving the different types of adoption assistance and, as the Department of Public Welfare deems appropriate, an analysis of the data collected and any recommendations. (§ 2113(c))
- Establish and implement a home study registry. (§ 2326)
- Establish and implement a registry for medical and social history information. (Subchapter C of Chapter 26)
- Develop a mechanism to provide and pay for adoption services if a child is placed outside this Commonwealth. (§ 2704)
- Submit to the General Assembly a fiscal and program evaluation report regarding the provision of adoption services. (§ 2706)
- Ensure the provision of preadoption services, which include recruitment; dissemination of information; family education and preparation; child assessment, education and preparation; matching services; preplacement services and postplacement services. (Subchapter B of Chapter 27)
- Ensure the provision of postadoption services. (Subchapter C of Chapter 27)
- Publish and make available to the general public information on adoption assistance. (§ 2802)

- Reimburse each county agency 100% of the cost of adoption assistance provided by the agency if it complies with the data collecting and reporting provisions. (§ 2803)
- Ensure the provision of adoption assistance, including maintenance payments, payments for nonrecurring adoption expenses, medical assistance and postadoption grants. (Subchapter B of Chapter 28)
- Consider administrative appeals regarding adoption assistance. (§ 2727)
- Promulgate rules and regulations regarding the following:
 - Data collection and reporting, including the establishment of specified reporting periods. (§ 2113(g))
 - Qualifications of an agency or individual to conduct a home study and postplacement evaluation. (§ 2301(b))
 - Standards that must be considered in determining the suitability of a prospective adoptive parent to adopt a child. (§ 2327)
 - The implementation of a standardized training program for court and agency authorized representatives conducting searches. (§ 2656)
 - The implementation of adoption services. (§ 2705)
 - The implementation of adoption assistance. (§ 2804)
- Develop forms regarding the following:
 - Collecting and reporting data on nonidentifying statistical information regarding adoptions. (§ 2113(g))
 - Filing information with the home study registry. (§ 2326(c))
 - Obtaining specific information regarding background on children before their adoption is finalized. (§ 2344)
 - Filing and updating information in the registry for medical and social history information. (§ 2623)

FLOW CHARTS

In order to facilitate an understanding of the voluntary relinquishment process, the following charts are included in this report:

- **Voluntary Relinquishments for Birth Mothers**
- **Voluntary Relinquishments for Birth Fathers**
- **Voluntary Relinquishments for Putative Fathers**
- **Minimum Time Periods: Voluntary Relinquishments for Birth Mothers 18 Years of Age or Older**
- **Minimum Time Periods: Voluntary Relinquishments for Birth Mothers Less Than 18 Years of Age**
- **Minimum Time Periods: Voluntary Relinquishments for Birth Fathers 18 Years of Age or Older if Form Executed After Birth of Child**
- **Minimum Time Periods: Voluntary Relinquishments for Birth Fathers 18 Years of Age or Older if Form Executed Before Birth of Child**
- **Minimum Time Periods: Voluntary Relinquishments for Birth Fathers Less Than 18 Years of Age if Form Executed After Birth of Child**
- **Minimum Time Periods: Voluntary Relinquishments for Birth Fathers Less Than 18 Years of Age if Form Executed Before Birth of Child**

Voluntary Relinquishments for Birth Mothers

The voluntary relinquishment form has been executed and the petition for voluntary relinquishment has been filed.

↓
Have 3 days elapsed since the birth of the child?
↓

↓
YES. Is the birth mother less than 18 years old?
↓

↓
NO. The voluntary relinquishment is invalid. (§ 2214(b))

↓
NO.
↓

↓
YES.
↓

↓
Did the birth mother request a hearing on voluntary relinquishment in her executed voluntary relinquishment form?
↓

↓
Did the birth mother name her parent or legal guardian in her executed voluntary relinquishment form?
↓

↓
NO.
↓

↓
YES. Proceed with the hearing on voluntary relinquishment. (§ 2223)

↓
NO. Hold an expedited hearing within 3 business days. (§ 2222(b)(1))
↓

↓
YES.
↓

↓
Was the voluntary relinquishment form notarized?
↓

↓
Did the birth mother request a hearing on voluntary relinquishment?
↓

↓
NO. Hold a hearing to confirm identity. (§ 2224)

↓
YES. The court may proceed with the termination process without any hearing for the birth mother.
↓

↓
Did the court determine that the birth mother understood the purpose of the voluntary relinquishment and the contents of the executed form?
↓

↓
NO. Give notice to the parent or legal guardian within 3 business days of the filing of the petition for voluntary relinquishment. (§ 2221(b)) *
↓

↓
YES. Proceed with the hearing on voluntary relinquishment. (§ 2223)

↓
YES. Allow the voluntary relinquishment process to continue. (§ 2222(d)(1))

↓
NO. Did the court determine that termination will serve the needs, welfare and best interests of the birth mother?
↓

↓
YES. Allow the voluntary relinquishment process to continue. (§ 2222(d)(2))

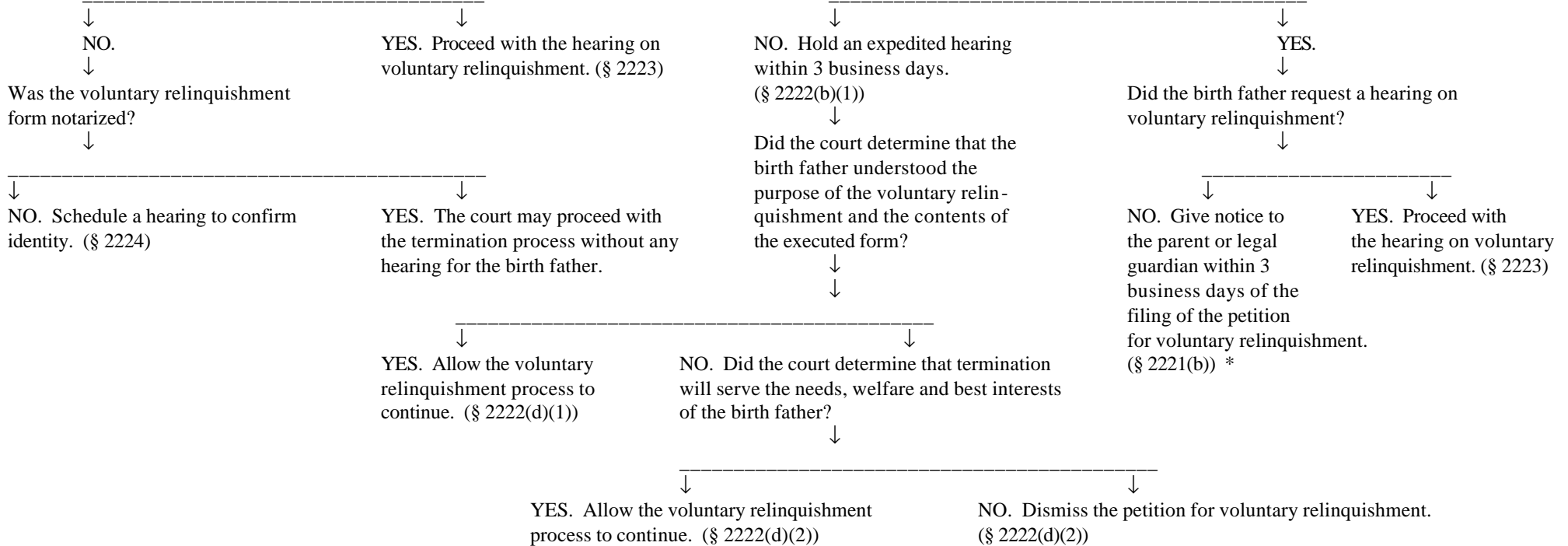
↓
NO. Dismiss the petition for voluntary relinquishment. (§ 2222(d)(2))

*** This assumes that the voluntary relinquishment form has been notarized. If it has not been notarized, a hearing to confirm identity under § 2224 must be held.**

Voluntary Relinquishments for Birth Fathers

The voluntary relinquishment form has been executed and the petition for voluntary relinquishment has been filed.

↓
Is the birth father less than 18 years old?
↓



NOTE: An expedited hearing and a hearing on voluntary relinquishment may not be held until after the birth of the child. See §§ 2222(b)(2) and 2223(b)(2).

* This assumes that the voluntary relinquishment form has been notarized. If it has not been notarized, a hearing to confirm identity under § 2224 must be held.

Voluntary Relinquishments for Putative Fathers

Is the putative father of the child named in the petition for voluntary relinquishment?



Did the individual who executed the voluntary relinquishment form on which the petition was based request a hearing on voluntary relinquishment?



YES. Give the putative father notice of the hearing on voluntary relinquishment. (§ 2223(c)(1)(iv))

Did the putative father attend the hearing and object to the termination of his parental rights?

YES. The court shall grant him standing to establish paternity and allow him to assert his claim to the child. (§ 2223(d)(3))

NO. The court may terminate his parental rights. (§ 2225(b))

NO. Give the putative father notice of the hearing for putative fathers. (§ 2203(a)(1))

Did the putative father attend the hearing and object to the termination of his parental rights?

YES. The court shall grant him standing to establish paternity and allow him to assert his claim to the child. (§ 2203(c)(2))

NO. The court may terminate his parental rights. (§ 2203(c)(3))

YES. The court shall grant him standing to establish paternity and allow him to assert his claim to the child. (§ 2223(d)(3))

Did a search of the registries under § 2202 reveal any putative fathers?



NO. The process of termination of parental rights may continue with respect to the individual who executed the voluntary relinquishment form on which the petition was based.



YES.

Did the individual who executed the voluntary relinquishment form on which the petition was based request a hearing on voluntary relinquishment?



YES. Give the putative father notice of the hearing on voluntary relinquishment. (§ 2223(c)(1)(iv))

Did the putative father attend the hearing and object to the termination of his parental rights?

NO. The court may terminate his parental rights. (§ 2225(b))

NO. Give the putative father notice of the hearing for putative fathers. (§ 2203(a)(1))

Did the putative father attend the hearing and object to the termination of his parental rights?

YES. The court shall grant him standing to establish paternity and allow him to assert his claim to the child. (§ 2203(c)(2))

NO. The court may terminate his parental rights. (§ 2203(c)(3))

Minimum Time Periods: Voluntary Relinquishments for Birth Mothers 18 Years of Age or Older

Three days have elapsed since the birth of the child, the VR form was executed and the petition for VR was filed.

↓
Is the birth mother less than 18 years old?

↓
NO.

↓
Did the birth mother request a hearing on VR in her executed VR form?

↓
NO.

↓
Was the VR form notarized?

↓
NO. Hold a hearing to confirm identity (§ 2224(a))

↓
Need at least 10 days' notice of the hearing to confirm identity. (§ 2224(b)(2))

↓
Did 20 days elapse since the VR form was executed?

↓
YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

↓
NO. The court may not enter a final decree of TPR.

TPR may occur 23 days after the birth of the child.

↓
YES.

↓
Did 20 days elapse since the VR form was executed?

↓
YES. The court may enter a final decree of TPR without any hearing for the birth mother. (§ 2225(a)(3))

TPR may occur 23 days after the birth of the child.

↓
YES. Proceed under § 2223.

↓
Need at least 10 days' notice of the hearing on VR. (§ 2223(c)(1))

↓
The court may enter a final decree of TPR at the hearing on VR even if 20 days did not elapse since the VR form was executed or the birth mother did not attend the hearing on VR. (§§ 2218(g) and 2225(a)(1))

TPR may occur 13 days after the birth of the child.

↓
NO. The court may not enter a final decree of TPR.

NOTE: VR is voluntary relinquishment and TPR is termination of parental rights.

Minimum Time Periods: Voluntary Relinquishments for Birth Mothers Less Than 18 Years Old

Three days have elapsed since the birth of the child, the VR form was executed and the petition for VR was filed.

↓
Is the birth mother less than 18 years old?

↓
YES. Did the birth mother name her parent or legal guardian in her executed VR form?

↓
NO. Hold an expedited hearing within 3 business days. (§ 2222(b)(1))

↓
Did the court determine that the birth mother understood the purpose of the VR and the contents of the executed form?

↓
YES.

↓
Did 20 days elapse from the date of the expedited hearing?

↓
YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

TPR may occur 26 days after the birth of the child (assuming that the expedited hearing is held 3 days after the VR form is executed).

↓
NO. The court may not enter a final decree of TPR.

TPR may occur 26 days after the birth of the child (assuming that the expedited hearing is held 3 days after the VR form is executed).

↓
NO.

↓
Did the court determine that the TPR will serve the needs, welfare and best interests of the birth mother?

↓
YES.
↓
Did 20 days elapse from the date of the expedited hearing?

↓
YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

↓
NO. The court shall dismiss the petition for VR. (§ 2222(d)(2))

↓
NO. The court may not enter a final decree of TPR.

↓
NO. Give notice to the parent or legal guardian within 3 business days of the filing of the petition for VR. (§ 2221(b))

↓
Did 20 days elapse since the VR form was executed? *

↓
YES. The court may enter a final decree of TPR. (§ 2225(a)(3))

TPR may occur 23 days after the birth of the child.

*** This assumes that the VR form has been notarized. If it has not been notarized, a hearing to confirm identity must be held (§ 2224(a)) and 10 days' notice provided. If 20 days have elapsed since the VR form was executed, TPR may occur. (§ 2225(a)(2))**

↓
YES.

↓
Did the birth mother request a hearing on VR?

↓
YES.
↓
Need at least 10 days' notice of the hearing on VR. (§ 2223(c)(1))

↓
The court may enter a final decree of TPR even if 20 days did not elapse since the VR form was executed or the birth mother did not attend the hearing on VR. (§§ 2218(g) and 2225(a)(1))

TPR may occur 13 days after the birth of the child.

NOTE: VR is voluntary relinquishment and TPR is termination of parental rights.

Minimum Time Periods: Voluntary Relinquishments for Birth Fathers 18 Years of Age or Older If Form Executed After Birth of Child

The VR form was executed and the petition for VR was filed after the birth of the child.

↓
Is the birth father less than 18 years old?

↓
NO.

↓
Did the birth father request a hearing on VR in his executed VR form?

↓
NO.

↓
Was the VR form notarized?

↓
YES. Proceed under § 2223.

↓
Need at least 10 days' notice of the hearing on VR. (§ 2223(c)(1))

↓
The court may enter a final decree of TPR at the hearing on VR even if 20 days did not elapse since the VR form was executed or the birth father did not attend the hearing on VR. (§§ 2218(g) and 2225(a)(1))

TPR may occur 10 days after the execution of the VR form.

↓
NO. Hold a hearing to confirm identity.
(§ 2224(a))

↓
Need at least 10 days' notice of the hearing to confirm identity. (§ 2224(b)(2))

↓
Did 20 days elapse since the VR form was executed?

↓
YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

↓
NO. The court may not enter a final decree of TPR.

TPR may occur 20 days after the execution of the VR form.

↓
YES.

↓
Did 20 days elapse since the VR form was executed?

↓
YES. The court may enter a final decree of TPR without any hearing for the birth father.
(§ 2225(a)(3))

TPR may occur 20 days after the execution of the VR form.

↓
NO. The court may not enter a final decree of TPR.

NOTE: VR is voluntary relinquishment and TPR is termination of parental rights.

Minimum Time Periods: Voluntary Relinquishments for Birth Fathers 18 Years of Age or Older If Form Executed Before Birth of Child

The VR form was executed and the petition for VR was filed before the birth of the child.

↓
Is the birth father less than 18 years old?

↓
NO.

↓
Did the birth father request a hearing on VR in his executed VR form?

↓
NO.

↓
Was the VR form notarized?

↓

↓
NO. Hold a hearing to confirm identity.
(§ 2224(a))

↓
Need at least 10 days' notice of the
hearing to confirm identity. (§ 2224(b)(2))

↓
Did 20 days elapse since
the birth of the child?

↓

↓
YES. The court may
enter a final decree of
TPR. (§ 2225(a)(2))

↓
NO. The court may
not enter a final decree
of TPR.

*TPR may occur 20 days
after the birth of the child.*

↓
YES.

↓
Did 20 days elapse since
the birth of the child?

↓

↓
YES. The court may
enter a final decree of
TPR without any hearing
for the birth father.
(§ 2225(a)(3))

*TPR may occur 20 days
after the birth of the child.*

↓
YES. Proceed under § 2223, but the hearing on VR may not be held
until after the birth of the child. (§ 2223(b)(2)) The birth father needs
at least 10 days' notice of the hearing on VR. (§ 2223(c)(1))

↓

The court may enter a final decree of TPR at the hearing on VR even if
20 days did not elapse since the birth of the child or the birth father did
not attend the hearing on VR. (§§ 2218 and 2225(a))

TPR may occur 10 days after the birth of the child.

↓
NO. The court may
not enter a final decree
of TPR.

NOTE: VR is voluntary relinquishment and TPR is termination of parental rights.

Minimum Time Periods: Voluntary Relinquishments for Birth Fathers Less Than 18 Years Old If Form Executed After Birth of Child

The VR form was executed and the petition for VR was filed after the birth of the child. Is the birth father less than 18 years old?



YES. Did the birth father name his parent or legal guardian in his executed VR form?



NO. Hold an expedited hearing within 3 business days. (§ 2222(b)(1))



Did the court determine that the birth father understood the purpose of the VR and the contents of the executed form?



YES.



Did 20 days elapse from the date of the expedited hearing?



YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

TPR may occur 23 days after the execution of the VR form (assuming that the expedited hearing is held 3 days after the VR form is executed).

NO. The court may not enter a final decree of TPR.



NO.



Did the court determine that the TPR will serve the needs, welfare and best interests of the birth father?



YES.

↓
Did 20 days elapse from the date of the expedited hearing?



YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

TPR may occur 23 days after the execution of the VR form (assuming that the expedited hearing is held 3 days after the VR form is executed).

NO. The court shall dismiss the petition for VR. (§ 2222(d)(2))

NO. The court may not enter a final decree of TPR.



YES.



Did the birth father request a hearing on VR?



NO. Give notice to the parent or legal guardian within 3 business days of the filing of the petition for VR. (§ 2221(b))



Did 20 days elapse since the VR form was executed? *



YES. The court may enter a final decree of TPR. (§ 2225(a)(3))

TPR may occur 20 days after the execution of the VR form.

*** This assumes that the VR form has been notarized. If it has not been notarized, a hearing to confirm identity must be held (§ 2224(a)) and 10 days' notice provided. If 20 days have elapsed since the VR form was executed, TPR may occur. (§ 2225(a)(2))**



NO. The court may not enter a final decree of TPR.



YES. Proceed under § 2223.



Need at least 10 days' notice of the hearing on VR. (§ 2223(c)(1))



The court may enter a final decree of TPR even if 20 days did not elapse since the VR form was executed or the birth father did not attend the hearing on VR. (§§ 2218(g) and 2225(a)(1))

TPR may occur 10 days after the execution of the VR form.

NOTE: VR is voluntary relinquishment and TPR is termination of parental rights.

Minimum Time Periods: Voluntary Relinquishments for Birth Fathers Less Than 18 Years Old If Form Executed Before Birth of Child

The VR form was executed and the petition for VR was filed before the birth of the child. Is the birth father less than 18 years old?



YES. Did the birth father name his parent or legal guardian in his executed VR form?



NO. Proceed under § 2222, but the expedited hearing may not be held until after the birth of the child. (§ 2222(b)(2))



Did the court determine that the birth father understood the purpose of the VR and the contents of the executed form?



YES.



Did 20 days elapse from the date of the expedited hearing?



YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

TPR may occur 20 days after the expedited hearing.



NO. The court may not enter a final decree of TPR.



NO.



Did the court determine that the TPR will serve the needs, welfare and best interests of the birth father?



YES.

↓
Did 20 days elapse from the date of the expedited hearing?



↓
YES. The court may enter a final decree of TPR. (§ 2225(a)(2))

TPR may occur 20 days after the expedited hearing.

NO. The court shall dismiss the petition for VR. (§ 2222(d)(2))

↓
NO. The court may not enter a final decree of TPR.



YES.



Did the birth father request a hearing on VR?



NO. Give notice to the parent or legal guardian within 3 business days of the filing of the petition for VR. (§ 2221(b))



Did 20 days elapse since the birth of the child? *



↓
YES. The court may enter a final decree of TPR. (§ 2225(a)(3))

TPR may occur 20 days after the birth of the child.

↓
NO. The court may not enter a final decree of TPR.

*** This assumes that the VR form has been notarized. If it has not been notarized, a hearing to confirm identity must be held (§ 2224(a)) and 10 days' notice provided. If 20 days have elapsed since the birth of the child, TPR may occur. (§ 2225(a)(2))**



YES. Proceed under § 2223, but the hearing on VR may not be held until after the birth of the child. (§ 2223(b)(2))



Need at least 10 days' notice of the hearing on VR. (§ 2223(c)(1))



The court may enter a final decree of TPR even if 20 days did not elapse since the birth of the child or the birth father did not attend the hearing on VR. (§§ 2218 and 2225(a))

TPR may occur 10 days after the birth of the child.

NOTE: VR is voluntary relinquishment and TPR is termination of parental rights.