

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Policy Guide 2015.02

Legislative Update for Permanency and Adoption Staff

DATE: January 15, 2015
TO: All DCFS and Private Agency Child Welfare Workers and Supervisors
FROM: Bobbie Gregg, Acting Director *Bobbie Gregg*
EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to inform DCFS and POS of several amendments in Illinois law affecting child welfare practice made in **Public Acts 98-704, 98-804 and 98-846**. In the coming weeks, DCFS Rules and Procedures will be amended to reflect these statutory changes.

II. PRIMARY USERS

The primary users of this Policy Guide are POS and DCFS permanency workers, adoption/post adoption workers, and their supervisors and managers.

III. SUMMARY OF LEGISLATIVE CHANGES

A. Public Act 98-704 (House Bill 5949)

Public Act 98-704 became effective January 1, 2015, and amends sections of the **Adoption Act** [750 ILCS 50] affecting the Illinois Adoption Registry and Medical Information Exchange and Confidential Intermediary services.

- **No Fee for Confidential Intermediary Services.** There is no longer a service fee for any searches through the Confidential Intermediary program.
- **Searches Requested by Adult Siblings.** Adult siblings (21 and over) can use the Confidential Intermediary program to search for an adult brother or sister who was adopted, whether the birth parent is living or deceased as long as the birth parent has not filed forms with the State requesting no contact be made.
- **Searches Requested by Adult Grandchildren.** Adult grandchildren (21 and over) of a deceased adoptee or surrendered person can use the Confidential Intermediary program to attempt to locate birth relatives.



- **Requests for Non-Certified Copy of Birth Certificate.** If an individual who is eligible requests a non-certified copy of an original birth certificate from Illinois Department of Public Health (DPH), and
 1. DPH issues a certification of “no record found” (no birth certificate is located); or
 2. the located document for an adoption completed before 1946 indicates certain information was “omitted”;

the requesting individual may file a petition for the appointment of a Confidential Intermediary. If information that would have been on the original birth certificate is found in a court adoption file received by the Confidential Intermediary, that information will be provided by the Confidential Intermediary.
- **Adult Grandchild May File With Registry.** An adult grandchild may file a Registration Identification Form and an Information Exchange Authorization or a Denial of Information Exchange with the Adoption Registry and Medical Information Exchange, and may receive information in the same manner as an adult child of the deceased adopted or surrendered person.
- **Adoption Advisory Council Name Changed.** The Adoption Advisory Council described in Section 18.08 of the Adoption Act is renamed the Adoption Registry-Confidential Intermediary Advisory Council.

B. Public Act 98-804 (House Bill 4636)

Amendments to the **Adoption Act** in **Public Act 98-804** became effective January 1, 2015.

- **Expands Adoption Act Definition of “Related Child.”** This definition determines if the adopting parents are filing a Petition to Adopt a “related child” or an unrelated child. The definition expands “related child” to include when either or both of the adopting parents are related to the child by civil union, and adds great-grandparents, first cousins and second cousins to the list of accepted relationships to the child.
- **“First and Second Cousins” Defined.** Clarifies that a person is related to a child as a first cousin or a second cousin if they are both related to the same ancestor as either grandchild or great-grandchild.
- **Clarifies Child’s Relationship to Parent after TPR.** A child whose parent has executed a consent, a surrender, or a waiver pursuant to Section 10 of the Adoption Act, whose parent has signed a denial of paternity pursuant to Section 12 of the Vital Records Act or Section 12a of the Adoption Act, or parent has had his/her parental rights terminated is not a related child to that person, unless:

- the consent is determined to be void or is void pursuant to subsection 10(O) of the Adoption Act; or
- the parent executed a consent to adoption by a specified person or persons and a court finds the consent is void; or
- the order terminating the parental rights of the parent is vacated by a court of competent jurisdiction.
- **Defines “Parent.”** A “parent” is the legal mother or legal father of the child as defined in the Adoption Act (below).
 - A “legal father” is a man who is recognized as or presumed to be that child’s father;
 1. because of his marriage to or civil union with the child’s parent at the time of the child’s birth or within 300 days prior to that child’s birth, unless he signed a denial of paternity pursuant to Section 12 of the Vital Records Act or a waiver pursuant to Section 10 of the Adoption Act;
 2. because his paternity of the child has been established pursuant to the Illinois Parentage Act [750 ILCS 40], the Illinois Parentage Act of 1984 [750 ILCS 45] or the Gestational Surrogacy Act [750 ILCS 47];
 3. because he is listed as the child’s father or parent on the child’s birth certificate, unless he is otherwise determined by an administrative or judicial proceeding not to be the parent of the child or unless he rescinds his acknowledgement of paternity pursuant to the Illinois Parentage Act of 1984; or
 4. because his paternity or adoption of the child has been established by a court of competent jurisdiction.
 - A “legal mother” is a woman who is recognized as or presumed to be that child’s mother;
 1. because she gave birth to the child except as provided in the Gestational Surrogacy Act;
 2. because her maternity of the child has been established pursuant to the Illinois Parentage Act of 1984 or the Gestational Surrogacy Act;
 3. because her maternity or adoption of the child has been established by a court of competent jurisdiction;
 4. because of her marriage to or civil union with the child’s parent at the time of the child’s birth or within 300 days prior to the time of that child’s birth; or

5. because she is listed as the child’s mother or parent on the child’s birth certificate unless she is otherwise determined by an administrative or judicial proceeding not to be the parent of the child.

- **Terms Used Interchangeably.** “Biological parent”, “birth parent” and “natural parent” are interchangeable terms that mean a person who is biologically or genetically related to the child as a parent.
- **No Residence Requirement for Relative or Agency Adoptions.** A residence requirement is not applicable to an adoption of a related child or an adoption of a child placed by an agency.
- **Venue for Filing Adoption Petition.** An adoption proceeding may be commenced in any county in this State.

C. Public Act 98-846 (Senate Bill 3283)

Public Act 98-846 affects Section 7 of the Children and Family Services Act [20 ILCS 505].

- Section 7(b) of the Children and Family Services Act authorizes the Department to place children in substitute care with relatives, and defines who is considered a “relative” for that purpose. **Effective June 1, 2015** the definition of “relative” will be expanded to include “fictive kin.” “Fictive kin” means any individual, unrelated by birth or marriage, who is shown to have close personal or emotional ties with the child or the child’s family prior to the child’s placement with the individual.

DCFS and POS placing workers and foster home licensing staff shall not initiate any relative placements with fictive kin prior to June 1, 2015. The Office of Child and Family Policy will be issuing Rules and Procedures to instruct DCFS and POS staff how and when to consider placement with fictive kin, and licensure requirements.

IV. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

V. FILING INSTRUCTIONS

File this Policy Guide after Rules 309.