

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Distribution: X & Z

Policy Guide 2013.01

REINSTATEMENT OF PARENTAL RIGHTS THROUGH ADOPTION

DATE: May 24, 2013

TO: All DCFS and Private Agency Child Welfare Staff and Supervisors and Rules and Procedures Bookholders

FROM: Richard H. Calica, Director 

EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to implement P.A. 96-601 and to issue instructions to Department staff regarding conducting home studies when an adoption petition is filed to adopt a child by the child's former parent whose parental rights have been terminated.

II. PRIMARY USERS

Primary users of this Policy Guide are Department Regional Adoption Coordinators, Adoption Supervisors and Adoption Specialists.

III. BACKGROUND

The Adoption Act was amended to add Section 14.5, Petition to Adopt by Former Parent [750 ILCS 50/14.5], that permits a child's former parent to petition to adopt his/her former child (referred to in this Policy Guide as reinstatement of parental rights through adoption). Section 14.5 applies:

- 1) if it is in the best interests of the child to go forward with the adoption; AND
- 2) the child was a DCFS ward who was adopted by a relative; AND
- 3) the adoptive parent died without a "standby guardian or adoptive parent" and without listing a guardian in his/her will, OR the adoptive parent is ill and unable to parent and consents to the child's former parent adopting and the former parent wishes to adopt and meets the statutory criteria.

Under Section 14.5(c)(2), if the child becomes the subject of a juvenile court petition, the former parent has no standing to petition to adopt the child. In other words, if the child



comes back into DCFS custody or guardianship, the former parent is not permitted to file a petition to adopt the child using the criteria in this Section.

DCFS becomes involved only after the former parent files a petition to adopt. According to Section 14.5(d)(2), when the parent's petition is filed, the court shall appoint DCFS to:

- conduct an investigation and assess the former parent's ability and willingness to provide adequate care and protection to child;
- investigate the facts and circumstances of the past incidents that led to termination of parental rights; and
- assess any concerns as to the child's safety, well being or best interests if the former parent is permitted to adopt.

DCFS must submit a written report to the court. DCFS will not provide any casework or other follow up services or visits if the adoption is granted.

IV. ADOPTION SUPERVISOR'S RESPONSIBILITY

When an adoption investigation is ordered by a court pursuant to Section 14.5 of the Adoption Act, the order shall be forwarded to the Adoption Supervisor for the DCFS Region where the adoption petition is filed.

For adoptions filed in Cook County, the Adoption staff shall follow the procedures in Section III (B) of the **Circuit Court of Cook County, Administrative Order 2010-2** (Please see attached).

Investigatory Report

The Adoption Specialist shall conduct the home study and prepare the written report to the court for any adoption sought pursuant to Section 14.5 using the **CFS 411, Investigatory Report**. The Adoption Supervisor shall approve in writing the home study and written report to the court.

Review DCFS/POS Records

The Adoption Specialist shall obtain a signed **CFS 718, Authorization for Background Check** form for each member of the household that is being checked, the child's and family's case records from storage, review all court and case records involving the child and family, do a home study, obtain and review the child's current health records, and look for signs of other issues, such as past domestic violence that may affect the child's health, safety and well being. This review shall include at a minimum the following:

- What was the reason for the child and family's involvement and child's removal; reasons for TPR. Archives request must include whole family and other members of the household. Including investigatory records, if they are separated.

- Family's past history, current circumstances and recurrent issues;
- Birth family dynamics;
- Past or current incidents of domestic violence, substance abuse, criminal activity, etc.;
- What potential involvement will members of the household have? How will they be interacting with the child?
- Sleeping arrangements.

References

The Adoption Specialist shall interview community workers and others (e.g., mental health worker) who have worked with or have personal knowledge about the family. At least 3 collateral contacts shall be made.

Child's Current Functioning

The Adoption Specialist shall contact at least three collateral professionals (e.g., school personnel, mental health counselor, etc.) to gather information on the how child is doing – e.g., school, child's education (obtain current IEP) and service needs. Please refer to **Policy Guide 2012.05** for additional information.

CERAP

The Adoption Specialist shall conduct a CERAP as required in **Procedures 315.Appendix A, Child Endangerment Risk Assessment Protocol** or as ordered by the court.

Criminal and SACWIS Background Checks

The Adoption Specialist shall also require the petitioners and all members of the petitioner's household to submit to Child Abuse/Neglect and fingerprint-based criminal background checks. The Adoption Specialist must obtain a signed **CFS 718, Authorization for Background Check** form for every member of the household subject to a background check.

Best Interests, Health, Safety and Well Being

The Adoption Specialist shall document review of **Rule 315.30, Best Interests Health and Safety of the Child, Rule 315.300, Evaluating Whether Children Placement Should Be Returned Home, and Rule 315.305, When Reunification Is Inappropriate** to ensure that returning the child to the home of his/her parent is in the child's best interests and will promote the child's health, safety and well being.

✓ NOTE: Birth parents are NEVER eligible for Adoption Assistance.

V. 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.

VI. FILING INSTRUCTIONS

File this Policy Guide immediately following Rule 309, Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible.

VII. ATTACHMENT

Circuit Court of Cook County, Administrative Order 2010-2

Attachment: Cook County Administrative Order 2010-2

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION**

ADMINISTRATIVE ORDER 2010 - 2

**SUBJECT: IMPLEMENTATION OF P.A. 96-601 (750 ILCS 50/14.3)
RESTORATION OF PARENTAL RIGHTS AND ADOPTION BY
BIOLOGICAL PARENT**

Effective on the date of this Order, the following procedures shall apply to all adoption proceedings initiated in the County Division by a biological parent seeking restoration of his or her parental rights and adoption of his or her biological child as provided in 750 ILCS 50/14.3.

I. Denomination of Pleadings.

The petition filed in such matters shall be denominated as a "Petition For Restoration of Parental Rights and Adoption of a Minor Child." The statutory authority for the proceeding shall be clearly stated in the introductory paragraph of the petition.

II. Contents of Pleading.

Each pleading shall contain a clear statement of fact establishing the propriety of initiating the action as set out in 750 ILCS 50/14.5(a). In addition to the requirements found at 750 ILCS 50/5, such petitions must contain factual allegations to satisfy the requirements of 750 ILCS 50/14.5 (c) (1) (A through E). Conclusory allegations parroting the language of the statute will be presumed to be legally insufficient and subject to summary dismissal under 735 ILCS 5/ 2-615. Finally, such Petition shall contain a factual allegation establishing standing to initiate the action as set out in 750 ILCS 50/14.5 (c) (2).

The prayer for relief shall include a request for the relief provided by 750 ILCS 50/14.5(e) (3) and (4).

III. Appointment of a Guardian *ad Litem* and Designation of Investigator

The appointment of a Guardian *ad Litem* in these proceedings shall be determined by the provisions of this Administrative Order. Any prior or subsequent Administrative Order of the County Division relating to the appointment of a Guardian *ad Litem* shall not serve to alter or overrule the provisions of this Order unless this Administrative Order is specifically referenced.

Due to the requirements for obtaining an interim order found at 750 ILCS 50/14.5 (d), Counsel is encouraged to seek appointment of a Guardian *ad Litem* and Investigator promptly after initiating the proceeding. This may be done at either the 9:30 a.m. or 1:30 p.m. court calls for Calendar 1. Notice of a Party's intention to obtain such an Order shall be served on The Office of the Cook County Public Guardian, Robert Harris, at least three business days prior to the date of the hearing. The current practice concerning delivery of courtesy copies to the Court applies to these matters.

The Order shall provide, in addition to all other relief sought by the Petitioner, that the Guardian *ad Litem* shall have access to the child(ren) and any and all relevant documents pertaining to said child(ren) without limitation. Nothing herein shall be construed to grant the Guardian *ad Litem* access to any records of any other person other than as provided by the provisions of the Illinois Supreme Court and the Code of Civil Procedure relating to discovery in civil cases. The order shall also provide that the Guardian *ad Litem* is authorized to re-disclose to all parties, the Illinois Department of Children and Family Services "Department" and the Court any information the Guardian *ad Litem* has in his or her possession on any prior abuse, neglect and dependency case pertaining to the parties in that proceeding.

A. In all proceedings initiated under this statutory provision, the Court will appoint Robert F. Harris, Public Guardian of Cook County as the Guardian *ad Litem* for the minor child. In the event Mr. Harris seeks to withdraw as Guardian *ad Litem*, the Court will appoint a successor Guardian *ad Litem* from the Court's designated panel of *Guardians ad Litem*s. The Guardian *ad Litem* will be selected in the same manner as one is appointed in any other adoption proceeding.

In the event withdrawal is sought due to a conflict over what outcome of the matter is in the minor's best interest, the Court will appoint Mr. Harris to serve as the minor's attorney, assuming the adopting family is unable to pay for the services of counsel for the minor, and select a new *Guardian ad Litem* from the designated panel in order to preserve the confidentiality of communications between the minor child and the original *Guardian ad Litem*.

In the event the Court determines that Mr. Harris cannot continue to serve as counsel for the minor child, assuming the adopting family is unable to pay for the services of appointed counsel; private counsel shall be appointed to represent the minor child.

Upon receipt of the preliminary investigation report, the *Guardian ad Litem* shall undertake diligent efforts to have an in-person meeting with the child(ren) that are the subject of these proceedings.

Upon completion of the investigation, the *Guardian ad Litem* shall file a report with the Court in a form substantially similar to that attached to this Administrative Order. One report shall be prepared for each child sought to be adopted and filed of record in the adoption proceeding.

B. All initial investigations in such proceedings shall be conducted by the Illinois Department of Children and Family Services ("Department") or any successor to the duties and responsibilities of that Department.

Upon appointment, the Investigator shall provide the *Guardian ad Litem* with a "*Preliminary Investigation Disclosure*." This should be delivered within three business days of receiving notice of the fact of appointment. Such disclosure shall contain, at a minimum, 1) an assessment of the home where the child currently resides as set out in the Child Endangerment Risk Assessment Protocol ("CERAP"); 2) a current CANTS/LEADS search results for all persons residing in such home who are aged 13 and above, and all frequent visitors to the home aged 18 and older.

Within 60 days of the Preliminary Investigation Disclosure, DCFS shall complete an Investigative Report for the court.

Due to the nature of these proceedings, in addition to the requirements for initial reports of investigation in adoption proceedings as established from time to time. DCFS shall draft an Investigation Report that includes the following information in order to allow the Court to determine whether an adoption is in the child's best interest:

- (a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- (b) the development of the child's identity;
- (c) the child's background and ties, including familial, cultural, and religious;
- (d) the child's sense of attachments, including:
 - (i) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);
 - (ii) the child's sense of security;
 - (iii) the child's sense of familiarity;
 - (iv) continuity of affection for the child;
 - (v) the least disruptive placement alternative for the child;
- (e) the child's wishes and long-term goals;
- (f) the child's community ties, including church, school, and friends;
- (g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives.
- (h) the uniqueness of every family and child;
- (i) the risks attendant to entering and being in substitute care;
- (j).the current and past relationship of the minor respondent to the birth parent;
- (k).the circumstances which led to the prior termination of parental rights;
- (l) details as to the change in circumstances in the life of the birth parent since the time of the prior termination of parental rights;
- (m).details as to the current circumstances of the life of the birth parent including but not limited to living arrangements, family composition, educational and/or work history, sources of income demonstrating an ability to provide for the child's care; the petitioner's understanding of both the current needs of the child and the child's attachment to the birth parents and other significant persons
- (n) the appropriateness and willingness of the petitioner to maintain contact with the members of the minor's former adoptive family.
- * (o) an assessment of the home of the Petitioner as set out in the Child Endangerment Protocol(CERAP) and a report of current CANTS/LEADS search results for all person residing in such home who are aged 13 and above and all frequent visitors to the home aged 18 and older.*

IV. Obtaining an Interim Order

The Court will schedule a hearing to determine whether an interim order should be entered approximately sixty days after the appointment of the Guardian *ad Litem* and the investigator. This will allow sufficient time for an investigation as to the facts and circumstances of the matter by the Guardian *ad Litem* and the preparation of at least a preliminary investigation by the Department.

If an emergency concerning the legal and physical custody of any minor child exists, the Court will schedule a hearing at an earlier date. In determining such date, the Court will consider the reason for the termination of parental rights, the efforts to ameliorate the conditions that led to the termination, the current living arrangements for the child, and the necessity of making certain that appropriate safeguards are in place.

V. Hearings

The Court does not contemplate requiring an evidentiary hearing in each case prior to the entry of orders restoring parental rights and granting an adoption. Such a hearing will be conducted upon the Court acting *sua sponte* or upon the written request of the minor's Guardian *ad Litem*. Nothing in this Order shall prevent any party to these proceedings from requesting a hearing to determine whether the child is available for adoption.

Dated this 29th day of January and Spread Upon the Records of this Court.

ENTER: _____
Presiding Judge, County Division

Report of GAL

(Insert Case Caption)

REPORT OF GUARDIAN *ad Litem*

Now comes , _____, appointed by this Court to act as the Guardian *ad Litem* for the child sought to be adopted and recommends that this Court:
{ } enter a Judgment of Adoption as being in the best interest of the child.

{ } set this matter for an evidentiary hearing to determine whether it is in the best interests of the minor for the court to enter a Judgment of Adoption.

This recommendation is made as a result of my investigation and review of these proceedings as required by the court's Standing Order and more specifically:

1. The child is available for Adoption as defined by statute because:

The Parental Rights of the biological/legal (strike one) mother were

{ } terminated by this Court.

{ } terminated by a surrender or irrevocable consent to adoption executed by the mother.

{ } terminated in another proceeding and all appeal rights have been exhausted.

{ } previously terminated and the biological mother has filed a petition seeking restoration of her parental rights and adoption of her biological child pursuant to 750 ILCS 50/14.5 et. al.

The Parental Rights of the biological/ legal (strike one) father were

{ } terminated by this Court.

{ } terminated by a surrender or irrevocable consent to adoption executed by the father.

{ } terminated in another proceeding and all appeal rights have been exhausted.

{ } previously terminated and the biological father has filed a petition seeking restoration of his parental rights and adoption of his biological child pursuant to 750ILCS 50/14.5 et. al.

2. Based upon information available to me, it is/ is not (strike one) in the best interests of the minor that a Judgment of Adoption be entered by this Court; this opinion is based upon the following:

{ }The conclusions found in an investigation conducted by a child welfare agency approved by the Illinois Department of Children and Family Services which I have reviewed.

{ }The conclusions found in an investigation conducted by the Illinois Department of Child and Family Services which I have reviewed.

{ }The results of my own investigation which were based in part by the Affidavits submitted by the Petitioners detailing their background. More specifically, based on the information available to me, it appears that:
The Petitioner(s) is/ are related to the child as: _____

That the child has resided with the Petitioner(s) for

That the results of a criminal history and C.A.N.T.S. check, as well as a search of the Sex Offender Registry performed by DCFS or a DCFS approved agency yielded negative results with the exception of _____ which I believe does not impact on the welfare of the child because

_____.

3. The religious affiliation of the Petitioner(s) is

_____.

4. The child's religious affiliation is

_____.

5. The child is/ is not (strike one) under the age of 14 years.

(For a child under age 14 only) As the duly appointed Guardian *ad Litem*, I hereby enter the child's consent to this adoption.

(For a child age 14 and over) The child's consent to adoption will be presented to the Court.

6. A Supplemental Report of the Guardian *ad Litem* containing additional information supporting my recommendation is/ is not (strike one) attached.

Respectfully submitted
Guardian *ad Litem*