

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 333
INTERCOUNTRY ADOPTION SERVICES

Section

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AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children and Family Services Act [20 ILCS 505], the Interstate Compact on the Placement of Children Act [45 ILCS 15] and the Adoption Act [750 ILCS 50] and implementing the Immigration and Nationality Act of 1952 (8 USC 1101 et seq.) and the Intercountry Adoption Act of 2000 (42 USC 14901-14952).

SOURCE: Adopted and codified at 6 Ill. Reg. 14513, effective November 22, 1982; old Part repealed at 35 Ill. Reg., and new Part adopted at 36 Ill. Reg., effective January 30, 2012.

Section 333.10 Purpose

The purpose of this Part is to establish appropriate jurisdictional responsibility for intercountry adoptive placements, to outline the requirements of the intercountry adoption process, and to ensure that children from a foreign country who are being placed for adoption in Illinois receive the same rights and protections during an adoptive placement as children who are born in this country. This Part also sets out the requirements for the adoption of children born in the United States or permanent residents of the United States by a resident of a foreign country.

Section 333.20 Definitions

"Accredited agency" or "Hague accredited agency" means an adoption agency accredited by the entity designated by the federal government to provide adoption services in the United States for cases subject to the Hague Intercountry Adoption Convention.

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"Adoption disruption" occurs when an adoptive placement does not prove successful and it becomes necessary for the child to be removed from placement before the adoption is finalized.

"Adoption services" includes any one or more of the following services performed for any type of compensation or thing of value, directly or indirectly:

arranging for the placement of or placing out a child,

identifying a child for adoption,

matching adoptive parents with biological parents,

arranging or facilitating an adoption,

taking or acknowledging consents or surrenders for termination of parental rights for purposes of adoption, as defined in the Adoption Act,

performing background studies on a child or adoptive parents,

making determinations of the best interests of a child and the appropriateness of adoptive placement for the child, or

post-placement monitoring of a child prior to adoption.

"Adoption services" does not include the following:

the provision of legal services by a licensed attorney for which the attorney must be licensed as an attorney under Illinois law,

adoption-related services performed by public governmental entities or entities or persons performing investigations by court appointment as described in subsection A of Section 6 of the Adoption Act,

prospective biological parents or adoptive parents operating on their own behalf,

the provision of general education and training on adoption-related topics, or

post-adoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.

[225 ILCS 10/2.24]

"Agency in good standing" means a licensed child welfare agency (see 89 Ill. Adm. Code 401) with no substantiated licensing violations.

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"Background check", for prospective foster and adoptive parents, means:

A criminal history check of persons age 17 and over whose fingerprints are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records or the National Crime Information Center (NCIC) database, when applicable, for prospective foster and adoptive parents; and

A check of the Child Abuse and Neglect Tracking System (CANTS) and other state child protection systems, or the National Sex Offenders Registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

A check of the Illinois Sex Offender Registry and the National Sex Offenders Registry, as appropriate.

"Convention" or "Hague" means the Hague Adoption Convention.

"Convention adoption" means an adoption of a child who is a resident of a foreign country that is a party to the Convention by a United States Citizen or an adoption of a child who is a resident of the United States by an individual residing in another Convention country.

"Convention agency" means an agency that has been accredited on a national level to provide adoption services in Convention adoption cases (currently, COA).

"Convention country" means a country that is a party to the Hague Adoption Convention.

"Department" means the Illinois Department of Children and Family Services.

"Exempt provider" means a social worker professional or organization that performs home studies. Exempt providers are not required to be accredited; however, the home study performed by an exempt provider shall be approved by an accredited agency.

"Foreign placing agency" means an agency or individual operating in a country or territory outside the United States that is authorized by its country to place children for adoption either directly with families in the United States or through U.S.-based international agencies.

"Home study" means a document attesting that the home has been evaluated by an approved agency/entity in accordance with requirements set out in [Section 333.80](#).

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"Home study revalidation" means the review and approval of an adoptive home study that is 12 months old or more and adheres to this Part and 8 CFR 204.311 (2011).

"Illinois placing agency" means a child welfare agency licensed in Illinois and operating in Illinois as an adoption agency or placing agency.

"Intercountry adoption" means a process by which a child from a country other than the United States is adopted by a U.S. resident.

"Intercountry Adoption Coordinator" means a staff person of the Department appointed by the Director to coordinate the provision of services by the public and private sector to prospective parents of foreign-born children, and to coordinate and approve the adoption of children born in the United States by a resident of a foreign country.

"Interstate Compact on the Placement of Children" means a law enacted by most states for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes or other child care facilities.

"Investigative report" means a report about a prospective adoptive family that adheres to the Adoption Act submitted to the court with jurisdiction over an adoption proceeding.

"Non-Compact State" means a state or U.S. territory that has not enacted the Interstate Compact on the Placement of Children.

"Non-Convention adoption" means an adoption by a U.S. citizen of a child who is a resident of a foreign country that is not a party to the Convention.

"Placing agency" means both Illinois placing agencies and foreign placing agencies as defined in this Section.

"Post-adoption report" means a written report compiled after the adoption has been finalized that complies with the State requirements regarding the number of post-adoption home visits that must be conducted.

"Post-adoption supervision" means an in-person contact by the placing agency with an adopted child and the family that has adopted the child after an adoption has occurred in a foreign country to meet the requirements of a foreign country.

"Post-placement report" means a written report generated as a result of in-person contact by the supervising agency with a family and child after the family has been granted legal custody and/or guardianship.

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"Pre-adoption requirements" means any conditions established by the laws and/or regulations of the federal government or the State that must be met prior to the placement of a child in an adoptive home.

Section 333.30 Requirements of Child Placing Agencies

- a) In order to place a foreign born child in the United States for the purpose of adoption or to provide adoption services:
 - 1) An Illinois placing agency shall be a Hague accredited agency or acting under the responsibility and supervision of a Hague accredited agency.
 - 2) An out-of-state Convention adoption agency shall be licensed/certified as a placing agency by the state in which it is located and shall comply with the Interstate Compact on the Placement of Children Act [45 ILCS 15] and shall be Hague accredited.
 - 3) An out-of-state non-Convention adoption agency shall be licensed/certified as a placing agency by the state in which it is located and shall comply with the Interstate Compact on the Placement of Children Act.
 - 4) All foreign placing agencies that intend to place a child for adoption in Illinois shall, upon request, submit to the Intercountry Adoption Coordinator a copy of their license/certification or court documents that authorize the agency to place children for adoption.
 - 5) An Illinois placing agency shall inform the Department of all countries in which the agency has an adoption program. The agency shall provide supporting documentation to show approval or accreditation of adoption services in those countries.
- b) Any placing agency shall not, in policy or practice, discriminate against any child or prospective adoptive parents on the basis of race.
- c) All agencies, in adoption cases subject to the federal Intercountry Adoption Act (42 USC 14901-14952), shall be Hague accredited agencies or under the supervision of a Hague accredited agency, or be an exempt provider.
- d) Any placing agency shall give due consideration to a home study performed in accordance with [Section 333.80](#) by a Hague accredited agency or Hague exempt agency as long as the agency is in compliance with 89 Ill. Adm. Code 401 (Licensing Standards for Child Welfare Agencies).

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Section 333.40 Illinois Pre-Adoption Requirements

- a) When a foreign-born child is brought to Illinois for finalization of an adoption, the following pre-adoption requirements shall be met:
 - 1) The Department shall authorize a placing agency to place in Illinois.
 - 2) The placing agency shall secure and submit documentation that the child is legally free for adoption prior to entry into the United States that also includes:
 - A) A medical report on the child by a licensed or certified medical provider from the country of the child's origin;
 - B) The foster family home license of the adoptive family issued by the Department pursuant to the Child Care Act of 1969; and
 - C) A home study conducted by a licensed child welfare agency that is in compliance with [Section 333.80](#).
- b) When a foreign-born child is brought to the United States by the placing agency and the adoption has not been finalized in a foreign country, the agency responsible for post-adoption services shall submit a copy of the Order of Adoption to the Intercountry Adoption Coordinator within 30 days after finalization of the adoption.

Section 333.50 Illinois Post-Adoption Requirements

The adoptive family shall indicate its agreement in writing to make themselves available to the supervising agency for interviews, observations and post-placement visits, in a manner that is consistent with the supervising agency's policies and procedures.

Section 333.60 Guardianship

The prospective adoptive parents may be named legal guardians or custodians of the child. When prospective adoptive parents are named legal guardians or custodians by a foreign court, the parents shall file an adoption petition within 30 days after the child's entry into the United States requesting, as part of the interim order, that the Illinois court recognize their guardianship and appoint a guardian ad litem when applicable, with the power to consent to adopt as provided by the Adoption Act.

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Section 333.70 Intercountry Adoption Coordinator Services

The Intercountry Adoption Coordinator shall coordinate the provision of services for intercountry adoptions by:

- a) Providing authorization to child placing agencies meeting the Illinois requirements for adoptive placements of children immigrating to or emigrating from the United States.
- b) Notifying the United States Citizenship and Immigration Services (USCIS) when prospective adoptive parents have complied with the Illinois pre-adoption requirements and/or completed a valid home study by a properly licensed child welfare agency.
- c) Notifying the Department's licensing representative when an adoption agency or adoption service closes or is aware of a violation of licensing standards as required in 89 Ill. Adm. Code 401.590 (Adoption Agency Information and Complaint Registry).
- d) When the Intercountry Adoption Coordinator has denied an adoption, a new application by a prospective adoptive parent for adoption approval may be filed not sooner than 12 months from the date of denial.

Section 333.80 Adoption Home Study Services

- a) A home study shall be completed by a child welfare agency licensed in Illinois and meet the requirements of the Department and the federal Department of Homeland Security (8 CFR 204, Immigrant Petitions (2011)).
- b) The Department shall consider a home study to be valid for a maximum period of 12 months from the date of the completion of the home study. Home studies shall also meet the requirements of USCIS. A home study revalidation shall be required when the home study is more than 12 months old and a child has not been placed. A copy of the revalidation shall be forwarded to the Intercountry Adoption Coordinator.
- c) An adoption home study shall consist of:
 - 1) A factual evaluation of the financial, physical and mental suitability of the prospective parent or parents to raise and educate the child properly;
 - 2) Background check results, including a statement as to whether the prospective adoptive parent or parents have a history of substance abuse, child abuse, domestic violence, criminal convictions and/or arrest history, physical or sexual abuse, either as a victim or perpetrator, even if the incident did not result in an arrest or conviction;

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- 3) A statement indicating whether the prospective adoptive parents have ever voluntarily surrendered parental rights or had parental rights involuntarily terminated, including the circumstances;
 - 4) A detailed description of the living accommodations where the prospective parent or parents currently reside that meets the minimum standards of [Appendix A](#);
 - 5) A statement on the motivation for adoption;
 - 6) Documentation of pre-adoptive training;
 - 7) Characteristics of the children who the prospective adoptive parent would be qualified to adopt; and
 - 8) The home study shall be signed and dated by a home study worker who has conducted the home study and the worker's supervisor.
- d) **Pre-Adoption Requirements**
In addition to complying with [Section 333.40](#), the child welfare agency that completes the adoptive home study shall:
- 1) Offer to provide adoption preservation services or refer families for appropriate services in their community;
 - 2) Obtain a written agreement from the adoptive parents for regular post-adoption visits to take place as required by the State of Illinois, placement agency or country of origin.
- e) **Post-Placement Requirements**
In addition to complying with [Section 333.40](#), the child welfare agency that completes the adoptive home study shall:
- 1) Submit post-placement or post-adoption reports to the Intercountry Adoption Coordinator within 30 days after the child's immigration to the US;
 - 2) Provide post-placement services until the adoption has been finalized;
 - 3) Complete post-placement reports as required by Section 6 of the Adoption Act; and
 - 4) Complete the investigative report for the adoption as required by the court (see 750 ILCS 50/6).

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Section 333.90 Requirements for Adoption of Children Emigrating from the United States

- a) An Illinois placing agency shall:
 - 1) Be licensed as a child welfare agency in Illinois;
 - 2) Be Hague accredited; and
 - 3) Obtain prior written approval from the Department's Intercountry Adoption Coordinator to place a child for adoption in a foreign country.

- b) Pre-placement Requirements in Outgoing Adoptions
 - 1) The agency shall have written procedures to ensure the safe transportation of the child or transfer of the child if the child is in the company of the adoptive parents or the prospective adoptive parents.
 - 2) The agency shall identify the entity in the receiving country that will provide post-placement supervision and reports and ensure that the child's adoption record contains the information necessary for contacting that entity.
 - 3) The placement agency shall arrange post-placement supervision and/or other support services as required until legal adoption has been achieved, the minor has been returned to the United States, or an alternate adoption plan has been developed.
 - 4) The agency shall obtain a written agreement from the adoptive parents to participate in the post-adoption visits that will take place.

- c) Placement Requirements
In the case of a Convention adoption or Non-Convention Adoption involving the emigration of a child residing in the United States to a foreign country, the accredited agency shall do the following prior to placement:
 - 1) Complete and provide to the Department a social study/medical history on the child;
 - 2) Provide documentation that the child is legally available for adoption;
 - 3) Document that a home study report on the prospective adoptive parents has been prepared in accordance with the laws of the receiving country and that the study includes a background check of the prospective adoptive parents;

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- 4) Provide documentation that an Illinois court order granted transfer of custody of the child in adoption.
- d) Post-placement Requirements Prior to the Finalization of an Adoption
The agency responsible for post-adoption services shall:
- 1) Visit the children in the agency's care at least once every 30 days and discuss their wellbeing and concerns. No less than half of the visits shall be conducted in the home where the child resides; and
 - 2) Assess the safety in the pre-adoptive home.
- e) Retention of Jurisdiction
- 1) The Illinois placing agency shall retain jurisdiction over the child to determine all matters related to custody, supervision and care of the child and the final status of the case. This includes situations in which the adoption is disrupted and the agency regains custody of the child and finds an alternative adoptive family for the child. This jurisdiction shall also include the authority to effect or cause the return of the child to the United States or the child's transfer to another location.
 - 2) When applicable, the Illinois placing agency shall retain legal and financial responsibility for the child during the period of placement prior to adoption finalization.
- f) An agency found to be in violation of specific conditions of this Part may be subject to civil or criminal penalties.

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Section 333. APPENDIX A Minimum Requirements of Adoptive Homes

- a) An adoptive home located in Illinois shall be clean, well ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
- b) The water supply of the adoptive family home shall comply with the requirements of the local health department and the Illinois Department of Public Health. If the adoptive family home accepts children under age 10 or who are developmentally disabled, the maximum hot water temperature from all showers and bathtubs shall be no more than 115° Fahrenheit. If well water is used, a copy of the Inspection Report and Compliance with Regulations shall be on file with the supervising agency.
- c) Water Hazards Protection
 - 1) All in-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate.
 - 2) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5-foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, the pool's steps shall be removed or the pool shall be otherwise protected to insure the pool cannot be accessed.
 - 3) Any hot tub not enclosed with a 5-foot fence shall have a securely locked cover.
 - 4) Any portable wading pool not enclosed with a 5-foot fence shall be emptied daily.
 - 5) Adoptive parents residing in homes with pools, hot tubs, ponds, outdoor fountains, decorative water ponds, fishponds, or the like must have current CPR certification.
- d) Portable space heaters may be used as a supplementary source of heat if they have an Underwriters Laboratories sticker attached and are used in accordance with local and State building and fire codes. Portable space heaters may not be used in rooms where children are sleeping. Portable and fixed space heaters in areas occupied by children shall be separated by fire resistant partitions or barriers to prevent contact with the heater.
- e) Dangerous household supplies and dangerous tools shall be kept in a safe place inaccessible to children under 12 years of age. These items shall remain inaccessible to children during disposal.

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- f) When not being dispensed or immediately accessible due to medical necessity, prescription and nonprescription drugs shall be kept in places that are not readily accessible to children under 12 years of age. Expired or unused medications, syringes, medical waste or medication shall remain inaccessible to children during disposal.
- g) Any and all firearms and ammunition shall be locked up at all times and kept in places inaccessible to children. No firearms possessed in violation of a State or federal law or a local government ordinance shall be present in the home at any time. Loaded guns shall not be kept in an adoptive home unless required by law enforcement officers and in accordance with their law enforcement agency's safety procedures.
- h) The adoptive home shall comply with all requirements of the State laws and municipal codes for household pets. Certificates of inoculation for rabies shall be available for inspection.
- i) The adoptive home shall have an operating telephone on the premises unless the supervising agency has approved a written plan detailing immediate and unrestricted access to a telephone.
- j) The adoptive home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics, in accordance with Section 3 of the Smoke Detector Act [425 ILCS 60].
- k) An adoptive home that is not exempted by Section 20 of the Carbon Monoxide Alarm Detector Act [430 ILCS 135] shall be equipped with a minimum of one approved carbon monoxide detector within 15 feet of every sleeping room, in accordance with Section 10 of that Act.
- l) Adequate closet and dresser space comparable to that provided to the other children of the household shall be provided for each adoptive child to accommodate personal belongings.