

## **IC 31-19-2**

### **Chapter 2. Filing of Petition for Adoption**

#### **IC 31-19-2-1**

##### **Adoption of adult; petition; venue; consent; investigation**

Sec. 1. (a) An individual who is at least eighteen (18) years of age may be adopted by a resident of Indiana:

- (1) upon proper petition to the court having jurisdiction in probate matters in the county of residence of the individual or the petitioner for adoption; and
- (2) with the consent of the individual acknowledged in open court.

(b) If the court in which a petition for adoption is filed under this section considers it necessary, the court may order:

- (1) the type of investigation that is conducted in an adoption of a child who is less than eighteen (18) years of age; or
- (2) any other inquiry that the court considers advisable;

before granting the petition for adoption.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-2-2**

##### **Adoption of minor child; petition; venue; substituting petitioner**

Sec. 2. (a) A resident of Indiana who seeks to adopt a child less than eighteen (18) years of age may, by attorney of record, file a petition for adoption with the clerk of the court having probate jurisdiction in the county in which:

- (1) the petitioner for adoption resides;
- (2) a licensed child placing agency or governmental agency having custody of the child is located; or
- (3) the child resides.

(b) The county in which the petition for adoption may be filed is a matter of venue and not jurisdiction.

(c) Subject to IC 31-19-9-3, if an individual who files a petition for adoption of a child:

- (1) decides not to adopt the child; or
- (2) is unable to adopt the child;

the petition for adoption may be amended or a second petition may be filed in the same action to substitute another individual who intends to adopt the child as the petitioner for adoption. The amended petition or second petition under this subsection relates back to the date of the original petition.

*As added by P.L.1-1997, SEC.11. Amended by P.L.146-2007, SEC.2.*

#### **IC 31-19-2-3**

##### **Adoption of hard to place child by nonresident; petition; venue**

Sec. 3. (a) An individual who is not a resident of Indiana and who seeks to adopt a hard to place child may file a petition for adoption with the clerk of the court having probate jurisdiction in the county in which the:

- (1) licensed child placing agency or governmental agency

having custody of the child is located; or  
(2) child resides.

(b) The county in which a petition for adoption may be filed is a matter of venue and not jurisdiction.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-2-4**

##### **Consent to adoption by petitioner's spouse**

Sec. 4. (a) Except as provided in subsection (b), a petition for adoption by a married person may not be granted unless the husband and wife join in the action.

(b) If the petitioner for adoption is married to the:

(1) biological; or

(2) adoptive;

father or mother of the child, joinder by the father or mother is not necessary if an acknowledged consent to adoption of the biological or adoptive parent is filed with the petition for adoption.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-2-5**

##### **Filing of petition; number of copies; verification**

Sec. 5. (a) Except as provided in subsection (b), a petition for adoption must be filed in triplicate.

(b) If a petition for adoption is sponsored by a licensed child placing agency, the petition for adoption must be filed in quadruplicate.

(c) The original copy of a petition for adoption must be verified by the oath or affirmation of each petitioner for adoption.

*As added by P.L.1-1997, SEC.11. Amended by P.L.197-1997, SEC.13; P.L.1-2010, SEC.120.*

#### **IC 31-19-2-6**

##### **Contents of petition**

Sec. 6. A petition for adoption must specify the following:

(1) The:

(A) name if known;

(B) sex, race, and age if known, or if unknown, the approximate age; and

(C) place of birth;

of the child sought to be adopted.

(2) The new name to be given the child if a change of name is desired.

(3) Whether or not the child possesses real or personal property and, if so, the value and full description of the property.

(4) The:

(A) name, age, and place of residence of a petitioner for adoption; and

(B) if married, place and date of their marriage.

(5) The name and place of residence, if known to the petitioner for adoption, of:

- (A) the parent or parents of the child;
- (B) if the child is an orphan:
  - (i) the guardian; or
  - (ii) the nearest kin of the child if the child does not have a guardian;
- (C) the court or agency of which the child is a ward if the child is a ward; or
- (D) the agency sponsoring the adoption if there is a sponsor.
- (6) The time, if any, during which the child lived in the home of the petitioner for adoption.
- (7) Whether the petitioner for adoption has been convicted of:
  - (A) a felony; or
  - (B) a misdemeanor relating to the health and safety of children;and, if so, the date and description of the conviction.
- (8) Additional information consistent with the purpose and provisions of this article that is considered relevant to the proceedings.

*As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.6; P.L.131-2009, SEC.13.*

#### **IC 31-19-2-7**

##### **Medical report**

Sec. 7. (a) A medical report of the health status and medical history of the child sought to be adopted and the child's birth parents must:

- (1) accompany a petition for adoption; or
- (2) be filed not later than sixty (60) days after the filing of a petition for adoption.
- (b) The medical report must:
  - (1) include neonatal, psychological, physiological, and medical care history; and
  - (2) be on forms prescribed by the state registrar.
- (c) A copy of the medical report shall be sent to the following persons:
  - (1) The state registrar.
  - (2) The prospective adoptive parents.
- (d) This section does not authorize the release of medical information that would result in the identification of an individual.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-2-7.3**

##### **Waiver of criminal history check requirements prohibited**

Sec. 7.3. A court may not waive any criminal history check requirements set forth in this chapter.

*As added by P.L.138-2007, SEC.36.*

#### **IC 31-19-2-7.5**

##### **Submission of information, forms, or consents for criminal history check**

Sec. 7.5. (a) This section does not apply to a petitioner for adoption who provides the licensed child placing agency or county office of family and children with the results of a criminal history check conducted:

- (1) in accordance with IC 31-9-2-22.5; and
- (2) not more than one (1) year before the date on which the petition is filed.

(b) Every petitioner for adoption shall submit the necessary information, forms, or consents for:

- (1) a licensed child placing agency; or
- (2) the county office of family and children;

that conducts the inspection and investigation required for adoption of a child under IC 31-19-8-5 to conduct a criminal history check (as defined in IC 31-9-2-22.5) of the petitioner as part of its investigation.

(c) The petitioner for adoption shall pay the fees and other costs of the criminal history check required under this section.

*As added by P.L.200-1999, SEC.7. Amended by P.L.234-2005, SEC.92.*

#### **IC 31-19-2-7.6**

##### **Notification of criminal charge while adoption pending**

Sec. 7.6. If a petitioner for adoption is charged with:

- (1) a felony; or
- (2) a misdemeanor relating to the health and safety of children;

during the pendency of the adoption, the petitioner shall notify the court of the criminal charge in writing.

*As added by P.L.200-1999, SEC.8.*

#### **IC 31-19-2-8**

##### **Adoption history fee; putative father registry fee**

Sec. 8. Unless the petitioner for adoption seeks under section 1 of this chapter to adopt a person who is at least eighteen (18) years of age, the petitioner for adoption must attach to the petition for adoption:

- (1) an adoption history fee of twenty dollars (\$20) payable to the state department of health; and
- (2) a putative father registry fee of fifty dollars (\$50) payable to the state department of health for:
  - (A) administering the putative father registry established by IC 31-19-5; and
  - (B) paying for blood or genetic testing in a paternity action in which an adoption is pending in accordance with IC 31-14-21-9.1.

*As added by P.L.1-1997, SEC.11. Amended by P.L.200-1999, SEC.9.*

#### **IC 31-19-2-9**

##### **Deposit of fees in adoption history fund**

Sec. 9. Fees collected under section 8 of this chapter shall be deposited in the adoption history fund established by IC 31-19-18-6.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-2-10**

##### **Notice of filing of petition; examination, correction, and amendment of form of petition**

Sec. 10. (a) Not more than five (5) days after a petition for adoption has been filed, the clerk of the court shall notify the court of the filing.

(b) Upon receiving notice under subsection (a) that a petition for adoption has been filed, the court shall promptly:

- (1) examine the petition for adoption; and
- (2) determine whether the petition for adoption is in proper form.

(c) If the court does not find the petition for adoption to be in proper form, the court shall return the petition for adoption immediately to the petitioner for adoption or the petitioner's attorney.

(d) If a petition for adoption is returned under subsection (c), the petitioner for adoption shall promptly correct and amend the petition for adoption to conform to the law.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-2-11**

##### **Clerk's examination of form of petition**

Sec. 11. If the judge of the court dies, is disabled, or is absent, the clerk of the court shall examine the petition for adoption and the petition for adoption shall be acted upon accordingly.

*As added by P.L.1-1997, SEC.11.*

#### **IC 31-19-2-12**

##### **Copies of petition forwarded to licensed child placing agency**

Sec. 12. As soon as a petition for adoption is found to be in proper form, the clerk of the court shall forward one (1) copy of the petition for adoption to a licensed child placing agency as described in IC 31-19-7-1, with preference to be given to the agency, if any, sponsoring the adoption, as shown by the petition for adoption.

*As added by P.L.1-1997, SEC.11. Amended by P.L.145-2006, SEC.245; P.L.146-2006, SEC.17; P.L.131-2009, SEC.14; P.L.162-2011, SEC.13.*

#### **IC 31-19-2-13**

##### **Temporary custody of adopted children**

Sec. 13. (a) Except for a child who is under the care and supervision of the department, a petitioner for adoption may file a separate, ex parte, verified petition requesting temporary custody of a child sought to be adopted at the time of or any time after the filing of a petition for adoption. The petition for temporary custody must be signed by each petitioner for adoption.

(b) A court may grant a petition for temporary custody filed under subsection (a) if the court finds that:

- (1) the petition for adoption is in proper form; and

(2) placing the child with the petitioner or petitioners for adoption pending the hearing on the petition for adoption is in the best interests of the child.

(c) If temporary custody is granted under this section, the petitioner or petitioners for adoption are legally and financially responsible for the child until otherwise ordered by the court.

*As added by P.L.61-2003, SEC.2. Amended by P.L.145-2006, SEC.246.*

#### **IC 31-19-2-14**

##### **Consolidated paternity and adoption proceedings**

Sec. 14. (a) If a petition for adoption and a petition to establish paternity are pending at the same time for a child sought to be adopted, the court in which the petition for adoption has been filed has exclusive jurisdiction over the child, and the paternity proceeding must be consolidated with the adoption proceeding.

(b) If the petition for adoption is dismissed, the court hearing the consolidated adoption and paternity proceeding shall determine who has custody of the child under IC 31-19-11-5.

(c) Following a dismissal of the adoption petition under subsection (b), the court may:

- (1) retain jurisdiction over the paternity proceeding; or
- (2) return the paternity proceeding to the court in which it was originally filed.

If the paternity proceeding is returned to the court in which it was originally filed, the court assumes jurisdiction over the child, subject to any provisions of the consolidated court's order under IC 31-19-11-5.

*As added by P.L.61-2003, SEC.3.*