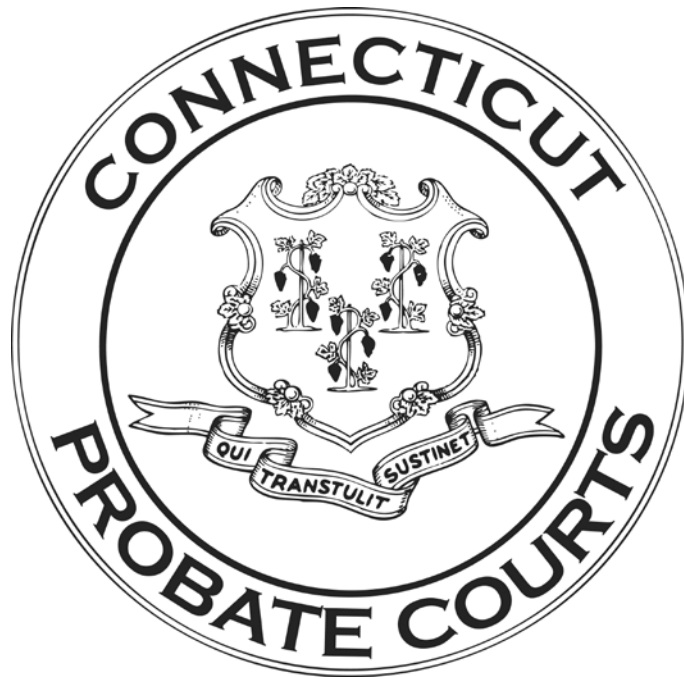


# **PROBATE COURT USER GUIDE**

## **TERMINATION OF PARENTAL RIGHTS AND ADOPTIONS**



PUBLISHED BY  
OFFICE OF THE  
PROBATE COURT ADMINISTRATOR  
STATE OF CONNECTICUT

COMPLIMENTS OF YOUR LOCAL PROBATE COURT

## **INTRODUCTION**

This user guide is intended to answer some of the questions you may have regarding the procedures, roles and responsibilities of the Probate Court in matters regarding the termination of parental rights and adoption. It should be considered only as a guide to the court process and not as a substitute for competent professional advice.

Petitions and other forms regarding the termination of parental rights and adoptions are available online at [ctprobate.gov](http://ctprobate.gov). Click on "Forms." Forms are also available at the Probate Courts.

## **TERMINATION OF PARENTAL RIGHTS**

### **What is meant by "termination of parental rights"?**

The term means the complete severance by court order of the legal relationship between a minor child and one or both parents. If the parental rights of both parents are terminated, the minor will be free for adoption.

Once terminated, parental rights cannot be restored.

### **Who can seek the termination of parental rights?**

Only the following parties may petition the Probate Court to terminate an individual's parental rights:

- (1) A parent or guardian of the minor.
- (2) Certain municipal officials.
- (3) A licensed child-care facility or adoption agency.
- (4) A relative of the minor if the parents have abandoned the minor.
- (6) The Commissioner of the Department of Children and Families (DCF) under certain limited circumstances.

If the minor is age 12 or older, the Probate Court can consider a petition to terminate parental rights only if the minor consents.

### **Where does a person petition for termination of parental rights?**

A petition for termination of parental rights must be filed in the Probate Court for the district where the petitioner or the minor is currently located or residing or where the minor's permanent home is located. If a child-care facility or adoption agency is guardian for the minor, the petition may be filed in the Probate Court for the district in which the agency has an office.

### **What information must be provided on a petition to terminate parental rights?**

The petitioner must provide the following information when filing a petition to terminate parental rights:

- (1) The minor's name, sex, date and place of birth and present address.

- (2) The petitioner's name and address and his or her relationship to the minor.
- (3) The names, birth dates and addresses of the parents and guardians of the minor.
- (4) If the minor was born out of wedlock, the petition must include the name and address of the father if a court has determined paternity **or** if no court has determined paternity, the petition should include the name and address of any person who has acknowledged *in writing* that he is the father **or** who has regularly supported the minor **or** any person whose name appears on the birth certificate **or** who has filed a claim of paternity in a Probate Court.

A petitioner may use the form *Petition/Termination of Parental Rights, PC-600*, which specifies all the information that is required.

If a parent consents to termination, the parent must complete an *Affidavit/Consent to Termination of Parental Rights, JD-JM-60*.

## **Procedures for Termination of Parental Rights**

### *Notice of Hearing*

The Probate Court must hold a hearing within 30 days of the filing of the petition. There are two exceptions to this requirement. First, if a DCF investigation has been ordered, the hearing will be continued until the investigation is complete. Second, if a parent has given consent to termination of his or her parental rights, the hearing must be held within 20 days of receipt of the petition. The court must provide at least 10 days notice to the parents and the minor, if age 12 or older.

### *Appointment of Attorney*

Parents who are the subject of a termination of parental rights petition have the right to an attorney. If the parents cannot afford an attorney, the court will appoint an attorney for them without charge. The court may also appoint an attorney for the minor.

### *Investigation and Examination*

The court may order DCF to conduct an investigation into the facts of the case. The purpose of the investigation, and the resulting written report, is to aid the court in determining the best interests of the minor. Generally, a written report must be submitted to the court within 90 days of the request, and the court cannot hold a hearing on the merits of the petition until that report has been received. The parties and their attorneys have the right to review the report.

The court may also order an examination of the minor and/or the parents by a physician, psychiatrist or psychologist as an additional aid in assisting the court to determine what course of action is in the minor's best interests. The cost of any examination

ordered by the court on its own motion will be paid by the petitioner; the cost of any examination requested by another party is paid by the party requesting the examination. If the party responsible for payment is indigent, the cost of the examination will be paid from the Probate Court Administration Fund.

### *Hearing*

The court will hold a hearing on the petition, and all interested parties and their attorneys will have the opportunity to offer evidence, examine and cross-examine witnesses and present arguments for their respective positions. Contested hearings are often recorded. Although the hearing may be relatively informal, the basic tenets of fundamental due process must be followed. All parties are well advised to be represented by an attorney.

### *Grounds for Termination*

The petitioner has the legal duty to prove to the court *by clear and convincing evidence* that the termination is in the minor's best interests, **and** that one of the following grounds for termination exists:

- (1) The minor has been abandoned by the parent.
- (2) The minor has been denied, by reason of acts of parental commission or omission, the care, guidance or control necessary for the minor's physical, educational, moral or emotional well-being.
- (3) There is no ongoing parent-child relationship, and to allow further time for the establishment or reestablishment of the parent-child relationship would be detrimental to the best interests of the minor.
- (4) A child of the parent has been found by the Superior Court or the Probate Court to be neglected, abused or uncared for in a prior proceeding.
- (5) The parent's rights were terminated with respect to another child, and a child of the parent under age seven has been found to be neglected, abused or uncared for.
- (6) The parent has deliberately killed or conspired to kill another of his or her children **or** has deliberately assaulted another of his or her children resulting in serious bodily injury.
- (7) The parent committed a sexual assault resulting in the conception of the minor.
- (8) The parent consents to the termination.

*Factors that the court will consider:*

- (1) Services that have been offered to the parent to facilitate reunion with the minor.
- (2) The degree to which the parent has complied with any court orders.
- (3) The feelings and emotional ties of the minor towards the parent and others.
- (4) The age of the minor.
- (5) The efforts the parent has made to adjust the parent's behavior or circumstances to facilitate the return of the minor in the reasonably foreseeable future.
- (6) The extent to which the parent may have been prevented from seeing the minor as a result of the unreasonable actions of others or the parent's economic circumstances.

## **Effect of Termination**

Termination of parental rights results in the complete and permanent severance of the parent-child relationship. If the rights of only one parent are terminated, the remaining parent becomes the sole legal parent of the minor. If the rights of both parents are terminated, the minor is "free for adoption." A person whose parental rights to a minor have been terminated has no legal rights or responsibilities with respect to the minor. An exception is the rights of inheritance between the parent and the minor, which remain intact unless and until the minor is adopted.

## **What is a statutory parent?**

If the rights of **both** parents have been terminated, the court may appoint DCF or an adoption agency as "statutory parent" for the purpose of giving the minor in adoption. The statutory parent becomes the sole guardian of the minor and is responsible for the minor's welfare and protection. It is the role of the statutory parent to place the minor in adoption.

If, however, an adoption is sought by a qualified relative of the minor, the appointment of a statutory parent may not be required. Following termination of parental rights, the court may appoint a guardian of the person of the minor, who has the ability to arrange the adoption by a qualified relative and petition the court for approval of the adoption.

## **What happens to a child when both parents' rights have been terminated?**

Federal and state laws require the guardian or statutory parent to report to the court on a case plan for the permanent placement of the minor. The initial report is due within 30 days of the entry of the termination decree and additional reports are due at least every

three months thereafter until the plan is implemented. The court *may* hold a hearing when a report is filed; the court *must* hold a hearing to review the case plan within 12 months of the termination decree and annually thereafter until any adoption plan has been finalized.

## **What is permanent guardianship?**

Permanent guardianship may, in some situations, provide an alternative to the termination of parental rights. It permits the placement of a minor with a guardian on a permanent basis without terminating the rights of the minor's parents.

The appointment of a permanent guardian requires that the parents be removed as guardians in the manner provided by law. In addition, before appointing a permanent guardian, the court must find by clear and convincing evidence that:

- (1) One of the grounds for termination of parental rights exists, or the parents' consent to a permanent guardian.
- (2) Adoption of the minor is not possible or appropriate.
- (3) If the minor is age 12 or older, the minor consents.
- (4) If the minor is under 12, the proposed permanent guardian is a relative or is already permanent guardian of a sibling of the minor.
- (5) The minor has resided with the proposed permanent guardian for at least one year.
- (6) The proposed permanent guardian is suitable and is committed to remaining as permanent guardian until the minor reaches age 18.

Once appointed, a permanent guardian has all the same powers and duties of any other guardian. After the appointment of a permanent guardian, the removed parents may not seek reinstatement as guardians, nor may they petition the court for the removal of the permanent guardian.

## **Special Immigrant Juvenile Status**

At any time during or after a termination of parental rights matter or an adoption matter, a party may file a petition requesting that the Probate Court make findings in connection with a petition to United States Citizenship and Immigration Services (USCIS) for the designation of a minor child as having special immigrant juvenile status. The minor child may be eligible to remain in the United States if USCIS grants this status.

A petitioner may use the form *Petition/Special Immigrant Juvenile Findings under 8 U.S.C. 1101, PC-609* to request that the court make these findings.

## **Probate Appeals**

Any person aggrieved by an order of the Probate Court may appeal to the Superior Court. In a termination of parental rights or adoption proceeding, the appeal must usually be taken within **30 days** from the date of the order, denial or decree. There are two exceptions to this requirement:

- (1) An appeal from an order terminating parental rights based on consent must be taken within **20 days**.
- (2) If the person appealing from an order terminating parental rights or from a decree of adoption did not receive notice of the hearing, the appeal must be taken within **90 days**.

## **ADOPTION**

### **What is adoption?**

Adoption is a process by which the legal relationship of parent and child is established when that relationship does not exist biologically. In order for a minor to be adopted, he or she must be “free for adoption” and “given in adoption” by a legally authorized individual or agency. With certain narrow exceptions, Connecticut does not allow the *direct* placement of minors for adoption by individuals or unregulated adoption agencies. Only certain approved agencies and close relatives, under careful regulation, may place a minor for adoption.

### **When is a minor free for adoption?**

A minor is considered “free for adoption” (eligible to be adopted) when:

- (1) the minor has no living parents, or
- (2) all parental rights have been terminated according to the laws of the applicable state or country.

There are special procedures involved for minors born outside the United States. Please consult a licensed adoption agency for further information.

### **Who may give a minor in adoption?**

The following parties may “give” (place) a minor in adoption, subject to the approval of the Probate Court:

- (1) A statutory parent may give a minor in adoption to any adult person.



- (2) A parent may give a minor in adoption to his or her spouse or to another person who shares parental responsibility for the minor, if the other parent has died or has had his or her parental rights terminated.
- (3) A guardian of the person may give a minor in adoption to a qualified relative of the minor.

**Consent of Minor:**

The court may not grant a petition for adoption without the consent of the minor, *if* the minor is age 12 or older.

**What effect does divorce have on an adoption procedure?**

A minor child of divorced parents is *not* automatically free for adoption, even when the Superior Court awards exclusive custody to one parent in a divorce action. The Probate Court may approve adoption by a parent’s new spouse only if a court has previously terminated the parental rights of the other parent.

**What is an identified adoption and when is it permitted?**

Generally, a minor unrelated to proposed adoptive parents must be “placed” with those parents by DCF or a licensed adoption agency. Except under very limited circumstances, a party seeking to adopt a minor may not conduct his or her own search for, or “identify,” a minor to adopt. Before taking any other steps, a party wishing to identify a child who may be adopted should contact DCF or a licensed adoption agency for assistance in following the stringent requirements for the adoption. Failure to follow these requirements may make it impossible for the adoption to take place.

**How does an adoption proceeding begin?**

*Petition*

A written petition, together with the adoption agreement (between the party “giving” the minor in adoption and the party wishing to adopt), is filed in the Probate Court where the adopting parent resides or where the statutory parent has an office. Forms are available from the Probate Court or on the Probate Court website at [ctprobate.gov](http://ctprobate.gov).

### *Investigation*

An investigation is required in all adoption matters unless the adopting parent is the spouse of the biological parent or shares parental responsibility with a biological parent. The court may order an investigation in any proposed adoption. Generally, DCF will not perform an adoption study in stepparent, co-parent and relative adoptions due to budgetary constraints. As a result, the petitioners need to arrange a study from a private licensed adoption agency **and** pay the cost of the study. If the petitioner is indigent, however, DCF will conduct the study. The purpose of the study is to assess the overall needs of the minor and the abilities of the adopting parent(s) to meet those needs.

### *Hearing*

When the investigation and report have been completed, the Probate Court will hold a hearing. Notice will be given to all interested parties, including DCF. If the court determines that the adoption is in the best interests **of the minor**, it will approve the petition.

## **What is the legal effect of adoption between the child and adoptive parent?**

C.G.S. section 45a-731 spells out the legal effects of adoption in detail. Inheritance rights, in particular, may be complicated, and the statute itself should be read carefully. In general, an adoption decree:

- (1) Creates the relationship of parent and child, as if the adoptive child were the natural child of the adoptive parent.
- (2) Terminates inheritance rights between the parent whose rights were terminated and the adopted child and establishes inheritance rights between the adopted child and the adoptive parents. There are important exceptions to this rule, and an attorney should be consulted for more information.

## **May an adult be adopted by another adult?**

Yes. Upon notice and after hearing, the Probate Court may approve an adult adoption if the court finds that the proposed adoptive parent and adopted person share a relationship that is similar to that between a parent and adult child and that the adoption is in the best interests of both parties. A birth parent of the adopted person may join in the adoption agreement with the birth parent's spouse. The parental rights of a birth parent who does not join in the adoption agreement will be terminated.

## **Are adoption proceedings open to the public?**

No. All adoption hearings and records are confidential under Connecticut law. Furthermore, the court may not disclose the identity of the birth parents or other

relatives to the adoptive parents or the adopted person. However, the adoptive parents, and the adopted person upon reaching age 18, are entitled to non-identifying information about the birth parents. That information is general in nature, including the nationality, race and education of the biological parent, as well as health and religious history.

Generally, an adoptive parent or adopted person who seeks identifying information about birth parents or other relatives must request that information from the agency that originally placed the child for adoption. If the identity of that agency is unknown, the petitioner may ask the DCF Adoption Resource Exchange to provide the name of the agency. The agency is responsible for contacting the relative to inquire whether the relative will consent to the release of information.

### **May an adopted person access his or her original birth certificate?**

An adult adopted person, or the person's adult children and grandchildren, may obtain a copy of the adopted person's original birth certificate if the adoption was finalized on or after October 1, 1983. The request should be made directly to the Department of Public Health and requires no Probate Court involvement.

If a person was adopted before October 1, 1983, the adopted person can petition the Probate Court to obtain an order for release of the original birth certificate. The court will issue an order only if it finds that both parents consent to the release or are deceased.

### **Who should be contacted for additional information?**

For information concerning the placement of children available for adoption, you may contact your local DCF office or any licensed child-placing agency.

## PROBATE COURT FORMS

### Termination of Parental Rights and Adoption

Petition/Termination of Parental Rights .....	PC-600
Petition/Consent Termination of Parental Rights AND Step-Parent, Co-Parent or Relative Adoption .....	PC-601
Application/Appointment of Statutory Parent/ Termination .....	PC-602
Application/Adoption .....	PC-603
Application/Validation of Foreign Adoption .....	PC-604
Petition/Determination of Age and Date of Birth of Adopted Person Born Outside of the Country .....	PC-604A
Petition/Information for Emergency Health or Medical Treatment.....	PC-606
Petition/Order Directing Department of Public Health to Issue Original Birth Certificate .....	PC-607
Application re: Placement for Out-of-State Adoption .....	PC-608
Petition/Special Immigrant Juvenile Status Findings Under 8 USC 1101 .....	PC-609
Affidavit/Temporary Custody, Removal, Termination or Adoption.....	PC-610
Birth Mother's Financial Affidavit/Identified Adoption .....	PC-611
Adoptive Parent's Financial Affidavit/Identified Adoption .	PC-612
Agency or Department Financial Affidavit/ Identified Adoption.....	PC-613
Adoption Data Sheet .....	PC-680
Agreement of Adoption .....	PC-681

These forms are available at the Probate Court or on the Probate Court website:  
[ctprobate.gov](http://ctprobate.gov).