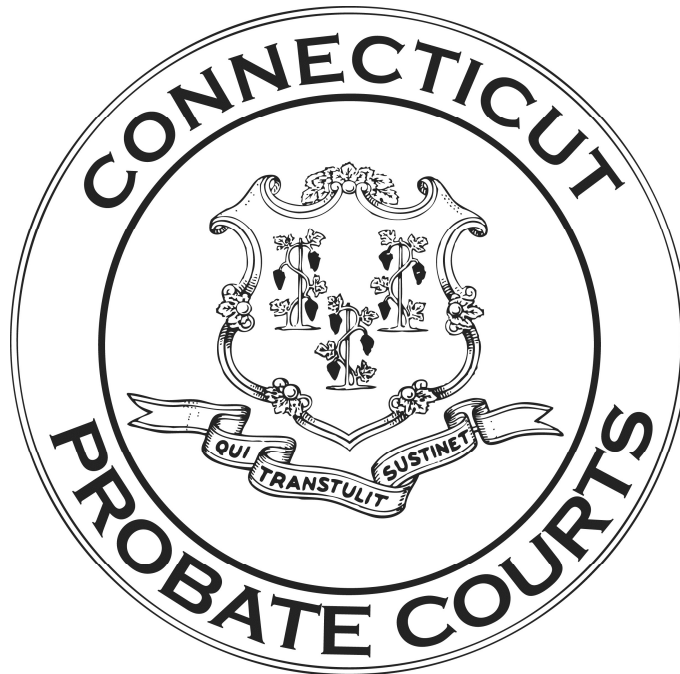


# **PROBATE COURT USER GUIDE**

## **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. For specific information regarding the probate process and procedures, please review the relevant Connecticut General Statutes and the Probate Court Rules of Procedure. This booklet should be considered only as a guide to the court process and not as a substitute for competent professional advice.

Petitions and other forms are available online at [ctprobate.gov](http://ctprobate.gov) and at the Probate Courts.

## TERMINATION OF PARENTAL RIGHTS

Termination of parental rights is the complete severance by court order of the legal relationship between a minor child and one or more parents. If the parental rights of all parents are terminated, the minor will be free for adoption.

Once terminated, parental rights cannot be restored.

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;
- (5) The Commissioner of Children and Families (DCF) under certain limited circumstances.

A petition for termination of parental rights must be filed in the Probate Court for the district where the petitioner resides or where 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. All court records concerning termination of parental rights are confidential and available only to the parties and their attorneys.

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) The name and address of any person who may have a claim of parentage, including any alleged genetic parent **or** any person whose name appears on the birth certificate.
- (5) A statement of facts in support of each ground for termination of parental rights alleged, including consent to termination.

A petitioner may use the *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*.

The petitioner is responsible for paying various court fees unless the court finds that the petitioner is indigent and unable to pay the fees. For example, the petitioner is responsible for paying the filing fee, for serving notice of the hearing on various parties, for any required newspaper publication, for additional notices, for additional copies and for recording documents.

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 the Probate Court ordered a DCF investigation, 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.

Any parent who is the subject of a termination of parental rights petition has the right to be represented by an attorney and may request the court to appoint an attorney if he or she cannot obtain or pay for one. The court may also appoint an attorney to represent the minor.

### *Investigation and Examination*

When a petition for termination of parental rights has been filed, the court may request an investigation report from DCF. The DCF investigation report will include facts that may be relevant to the court's determination of whether the action sought will be in the minor's best interests.

The court may order the examination of the minor by a physician, psychiatrist or licensed clinical psychologist. The court may also order the examination of a parent whose ability to care for the minor is in question. The cost of any examination ordered by the court will be charged to the petitioner, respondent or the party who requested the examination as determined by the court. If the party responsible for payment is indigent, the cost of the examination may 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.

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 was adjudged guilty of sexual assault resulting in the conception of the child, or
- (9) 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.

If the minor is age 12 or older, the court may not grant a petition for termination of parental rights unless the minor has joined in the petition.

### ***Effect of Terminating Parental Rights***

Termination of parental rights results in the complete and permanent severance of the parent-child legal relationship. The rights of one parent may be terminated without affecting the rights of any remaining parent. If the rights of all 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.

A court's order terminating parental rights does not change the minor's birth certificate.

### ***Cooperative Post-Adoption Agreement***

Parent(s) whose rights are to be terminated may agree with prospective adoptive parents of the minor on the extent of the contact between the parents and the minor following an intended adoption. Any court order approving a cooperative post-adoptive agreement must be made part of the decree terminating parental rights.

## *Statutory Parent*

If the rights of all 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 give the minor in adoption.

If 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.

## *Statutory Parent or Guardian Reporting*

Federal and state laws require the statutory parent or guardian to report to the court on a case plan for the permanent placement of the minor. The statutory parent or guardian may use the *Guardian/Statutory Parent Report/Case Permanency Plan*, PC-6804. The initial report is due within 30 days of the entry date 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 the adoption plan is finalized.

## *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 as having special immigrant juvenile status. The minor 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 party who is aggrieved by an order of the Probate Court may appeal to the Superior Court. The deadline for filing the appeal is generally 30 days after the date on which the court sent the order. 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** after the date on which the court sent the order.
- (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** after the date on which the court sent the order.

## ADOPTION

Adoption is a process by which parties may establish a legal relationship between a parent and child. 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.

A minor is considered “free for adoption” (eligible to be adopted) in these circumstances.

- (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.

A statutory parent may petition the court for the approval of an adoption of a minor by an adult person. In addition, a guardian of the person may petition for the approval of an adoption of a minor by a qualified relative of the minor. In some circumstances, a parent may petition for the approval of an adoption of a minor by his or her spouse or by another person who shares parental responsibility for the minor.

The Probate Court will require an investigation in all adoption matters. 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. The court may waive the requirement of an investigation if the adopting parent is the spouse of the biological parent or shares parental responsibility with a biological parent.

The Probate Court will hold a hearing when the investigation and report have been completed. The Probate Court will give notice of the hearing 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. The court may not grant a petition for adoption without the consent of the minor, if the minor is age 12 or older.

All court records concerning adoption are confidential and available only to the parties and their attorneys.

### *Legal Effects of Adoption Between the Child and Adoptive Parent*

Connecticut statutes specifically identify the legal effects of adoption in detail. Inheritance rights, in particular, may be complicated, and the statutes 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.

### *Adult Adoption*

An adult may petition to adopt a younger adult who is not his or her spouse, brother, sister, uncle or aunt. Upon notice and after a hearing, the Probate Court may approve the 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 the parties. The legal relationship between the adult adoptee and any parent who does not join in the adoption agreement will terminate.

### *Identified Adoption*

Generally, a minor unrelated to proposed adoptive parents must be “placed” with those parents by DCF or a licensed child-placing 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 child-placing 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.

### *Access to Adoption Records*

Records of adoptions finalized before January 1, 1944 are not confidential and are open to the public. If the adoption was approved on or after January 1, 1944, the records are confidential under Connecticut law. The court may not disclose the identity of the birth parents or other biological relatives to the adoptive parents or the adopted person.

Generally, an adoptive parent or adopted person who seeks identifying information about birth parents or other biological 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 Search Unit 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.

An adult adopted person, regardless of the date parental rights were terminated, is entitled to an uncertified copy of his or her original birth certificate from the registrar of vital statistics of the municipality where the adopted person was born.

Following the death of the adult adopted person, his or her biological parent(s), adult biological siblings or adult descendants may petition the Probate Court that approved the adoption for an order releasing an uncertified copy of the original birth certificate.

### *Adoption Resources*

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