Termination of Parental Rights

A GUIDE TO TERMINATION OF PARENTAL RIGHTS IN THE FAMILY COURT

FAMILY COURT OF THE STATE OF DELAWARE

http://courts.delaware.gov/family

What is the Definition of Termination of Parental Rights?

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What Happens After Parental Rights are Terminated?

After the Court issues a TPR Order, parental rights are usually then transferred to another person through an Adoption Order. The prospective adoptive parent must file a Petition for Adoption. Once an Adoption Order is issued, the adoptive parent then becomes the permanent legal parent of the child and will have all of the rights, duties, privileges and obligations recognized by the law between parents and their children. The law about adoption is found within Chapter 9 of Title 13 of the Delaware Code.

***Please note! Because parental rights are transferred to another person through an Adoption Order, it is recommended that the prospective adoptive parent file a Petition for Adoption at the same time as the Petition to Terminate Parental Rights.**

What is the Effect of Losing One's Parental Rights?

Both the individual whose parental rights were terminated and that individual's relatives lose all rights of inheritance from the child. Accordingly, the child will no longer have rights of inheritance from the individual whose rights were terminated and from that individual's relatives. If the individual whose parental rights were terminated still wants the child to inherit from him/her, then he/she must include the child in his/her will.

Who Can Ask the Family Court for a TPR (i.e. who can Petition for TPR)?

A Petition for TPR may be filed in the State of Delaware by any of the following:

1) The mother of a child;
2) The father or presumed father of a child;

(Please note! One parent does not usually file to terminate his/her rights only. It is highly unlikely that the Court would terminate one parent's rights if there was not a prospective adoptive parent in place. This is true even if one parent is being denied visitation and wishes to terminate his/her rights to cease child support payments.)

3) Both parents of a child;
4) A blood relative of a child;
5) The Department of Services for Children, Youth and Their Families (the "Department");
6) Any agency granted a license by the Department to place children for adoption (a "licensed agency").

For more information about Termination of Parental Rights, please see the Termination of Parental Rights Instruction Packet.

The Instruction Packet may be purchased in the Resource Center and is available online at http://courts.state.de.us/family.

The Instruction Packet includes detailed instructions about how and what to file, including sample forms.

Who Can Seek to Adopt (i.e. who can Petition for Adoption)?

A Petition for Adoption may be filed in the State of Delaware IF you are:

1) An unmarried person; OR
2) A husband and wife jointly seeking to adopt and who are NOT legally separated, living apart from each other, and/or divorced;

AND over 21 years old;

AND a Delaware resident.

What is the Termination of Parental Rights Process?

1) The Petitioner files a Petition to Terminate Parental rights
2) The Respondent has 20 days in which to file an Answer to that Petition.
3) A social study and report must be completed (Please see below for more information).
4) A Judge will hold a hearing, taking into consideration whether the parents agree to the termination.
5) The Judge will issue an order either granting or denying the Termination of Parental Rights.

What are the Grounds for Termination of Parental Rights?

When alleging facts in a Petition For Termination of Parental Rights, the petitioner must indicate at least one Ground for Termination of Parental Rights for each child. The grounds can be found on the last three pages of the Petition for Termination of Parental Rights or in Chapter 11 of Title 13 of the Delaware Code.

What is a Social Study and Report?

A Social Study and Report provides detailed information about the Petitioner and the child which will help the Court determine whether parental rights should be transferred to the Petitioner. A worker from a child-placement agency will talk to all of the people involved with the case including the Petitioner, the child's parents and the child. The worker will then write a report and submit it to the Court. The report will include information about the following: The child and the child's background; The Petitioner and the home where the child will be living; The child's physical and mental condition; The suitability of the placement; Whether all of the requirements under Delaware law have been met; AND The agency's recommendation regarding whether the termination of parental rights should be granted. **Please note! A Social Study and Report can be very expensive and it is the Petitioner's duty to pay for the study. Please contact a child-placement agency for costs.**

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What if I do not know where the Respondent is currently living?

If the location of either or both Respondent's is unknown, the Court will publish **AT PETITIONER'S EXPENSE**, a legal notice of the petition in 1 or more approved newspapers for 3 consecutive weeks in the county and state where either or both Respondents last known address was located. **Please note that this process can be very expensive!**

Where can I find a Child Placement Agency?

A list of agencies is provided below. You may also look in the phone book under "adoption".

Child Placement Agencies

New Castle County

Adoption House, Inc. (302) 477-0944

Adoptions From the Heart (302) 658-8883

Bethany Christian Services (800) 215-0700

Catholic Charities (302) 655-9624

Child and Home Study Associates (302) 475-5433

Children and Families First (302) 658-5177

LDS Family Services Delaware Agency (302) 456-3782

Madison Adoption Associates (302) 475-8977

Upper Bay Adoption and Counseling Services (302) 764-1890

Kent County

Catholic Charities (302) 655-9626

Sussex County

Catholic Charities (302) 655-9626