

TN Clerks of the Court Conference  
Fall 2024, Montgomery Bell State Park

A Clerk’s Guide to Adoptions

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TERMINATION OF PARENTAL RIGHTS

A. Jurisdiction: T.C.A. § § 36-1-113(a), 36-1-111(b); 37-1-104(c)

1. Circuit

2. Chancery OR

3. Juvenile



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TERMINATION OF PARENTAL RIGHTS

B. Voluntary Surrenders: A document executed under the provisions of T.C.A. § 36-1-111

1. By whom? Any birthparent or legal guardian, regardless of age

- Court may appoint GAL for a minor parent – T.C.A. § 36-1-110

2. To whom? T.C.A. § 36-1-111(c)

- Any prospective adoptive parent, 18 years of age or older
- TN DCS
- Licensed child-placing agency

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TERMINATION OF PARENTAL RIGHTS

3. When? T.C.A. § 36-1-111(d)

- Pre-birth. Not filed with clerk until after birth and after written reaffirmation within 3 days after birth of child
- Post-birth. No sooner than discharge of baby from hospital or forty-eight (48) hours after birth
- For good cause shown, which is entered as an order in the minute book, this waiting period can be waived

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TERMINATION OF PARENTAL RIGHTS

4. Where? T.C.A. § 36-1-111(b); (j)(3)(c)

- Private chambers of court OR
- A virtual video platform on which the court sees the person or persons surrendering the child. It is within the court's discretion to allow this option
- In presence of surrendering person's legal counsel (if applicable)
- Court has discretion for presence of court's officer or other employee

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TERMINATION OF PARENTAL RIGHTS

5. How?

Translating Surrender

- T.C.A. § 36-1-111(j)(1)
- Unable to read, read in the English language, see, or comprehend the surrender form
- Documents must be translated
- Accepting party is responsible for costs of translation/interpreter

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TERMINATION OF PARENTAL RIGHTS

5. How? (Continued)
- A. Tennessee Surrender signed by birthparent before and attested by Judge or Officiant
- B. Acceptance by Agency or Prospective Adoptive Parents, signed before and attested by Judge or Officiant
- C. Surrendering Party's Pre-Surrender Information Form signed before Notary  
-Do not have Legal Counseling or Social Counseling Forms anymore
- D. Accepting Party's Pre-Acceptance Information Form signed before Notary

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**TENNESSEE SURRENDER FORM**

I, (full name of surrendering party) \_\_\_\_\_, born (surrendering party's date of birth) \_\_\_\_\_, sign this surrender to end my parental rights and responsibilities to (full name of child) \_\_\_\_\_, born (child's date of birth) \_\_\_\_\_ in (location of child's birth) \_\_\_\_\_.

I am this child's (circle one) mother / father / possible father / guardian.

I surrender my parental rights to and request that this Court give guardianship to (a person/family with a current, approved home study, or a licensed child-placing agency) \_\_\_\_\_.

I know I only have three (3) days to change my mind and revoke this decision after I sign this form. This decision may not be changed if I do not revoke this surrender on or before \_\_\_\_\_ (three days after today, calculated under Tennessee Rule of Civil Procedure 6.01). To revoke, I must sign a revocation form before the Judge or officiant with me now, or his or her successor.

I have completed the Surrendering Party Pre-Surrender Information Form. I have provided true and complete answers to all the questions on that form to the best of my knowledge.

I know that I should only sign this form if I want my parental rights terminated. If I want to talk to my own lawyer before I sign this form, I should tell the Judge or other officiant now and this surrender process will stop. I can talk to my lawyer and then decide. If I still want to end my parental rights, if I do not have my own lawyer, I understand that I am free to go obtain my own lawyer and this surrender process will stop until I have done so, or I may continue without my own lawyer at this time.

If anyone is putting pressure on me to sign this surrender, or trying to make me sign against my will, or has promised me something I value in order to make me want to sign this surrender, I understand that I should tell the Judge or officiant about that before I sign this form. The Judge or officiant will not allow me to be forced to sign this surrender. No one is pressuring, threatening, or paying me to get me to sign this form. I believe voluntary termination of my parental rights is in the best interest of my child.

By signing below I voluntarily terminate my parental rights and surrender my child to the person(s) or agency listed above.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Surrendering Party's Signature

**Judge or Officiant Attestation**

I interviewed the surrendering party and witnessed execution of the foregoing surrender as required by T.C.A. § 36-1-111. The surrendering party understands that he/she is surrendering parental rights to this child. There is no reason to believe that this is not a voluntary act.

The Surrendering Party's Pre-Surrender Information Form, the surrendering party's Social and Medical History Form, and if the surrender is to an individual, or individuals, as opposed to an agency, the individual's, or individuals', court report based upon a current and approved home study are attached to this form. The Pre-Surrender Information Form and Social and Medical History Form are properly verified by a notary or I reviewed the information with the surrendering party and he/she has attested before me to the correctness of those forms.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge or Officiant's Signature

Name and Title: \_\_\_\_\_

Court or Employing Institution and Location: \_\_\_\_\_

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**SURRENDERING PARTY'S PRE-SURRENDER INFORMATION FORM**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Being duly sworn according to law, affiant would state:

1. I am: \_\_\_\_\_ (Date of Birth) \_\_\_\_\_ or \_\_\_\_\_ (Date of Birth) \_\_\_\_\_ or \_\_\_\_\_ (Date of Birth) \_\_\_\_\_.

2. a. Child's Name: \_\_\_\_\_  
b. Child's Date of Birth: \_\_\_\_\_  
c. Child's Place of Birth: \_\_\_\_\_  
d. Child's Sex: \_\_\_\_\_  
e. Child's Race: \_\_\_\_\_

3. This child was born in wedlock ☐ out of wedlock ☐ / in wedlock but the mother's husband is not the child's biological father ☐.

4. State the names and relationships of any other legal parents, putative fathers, and legal guardians for this child:

a. (1) Name: \_\_\_\_\_  
(2) Relationship to the child: \_\_\_\_\_  
(3) Address: \_\_\_\_\_  
(4) City, State, Zip: \_\_\_\_\_  
(5) Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_  
(6) Other identifying information concerning the above identified other legal or biological parent/legal guardian: \_\_\_\_\_

b. (1) Name: \_\_\_\_\_  
(2) Relationship to the child: \_\_\_\_\_  
(3) Address: \_\_\_\_\_  
(4) City, State, Zip: \_\_\_\_\_  
(5) Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_  
(6) Other identifying information concerning the above identified other legal or biological parent/legal guardian: \_\_\_\_\_

5. If the above named parties' whereabouts are unknown, please describe why that is the case: \_\_\_\_\_

6. Is the child or surrendering parent or another legal parent of the child a member of a federally recognized American Indian or Alaskan Native tribe?  
If "yes," please provide the name and address of the tribe; all available information regarding the tribal membership, including a membership number (if there is one, or the basis for the belief that one may be a tribal member. If there is a tribal membership card or tribal enrollment document please provide a copy by attaching it to this form.

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7. a. Will this child be sent out of Tennessee to another state for adoption? Yes ☐ No ☐  
b. If yes, name of state: \_\_\_\_\_

8. Have you been paid, received, or promised any money or other remuneration or thing of value in connection with the birth of the above-named child or placement of this child for adoption?  
Yes ☐ No ☐ If no, go to #9.  
If yes, please list the amount paid, to whom the payment was made, who made the payment, when was the payment made, and for what purpose the payment was made:  
\_\_\_\_\_

9. Does the child own any real or personal property? Yes ☐ No ☐ If yes, please describe property, its value, and any relevant circumstances:  
\_\_\_\_\_

10. a. I currently have ( ☐ ) legal, ( ☐ ) physical, or ( ☐ ) legal and physical custody of the child.  
b. If someone else has legal or physical custody of the child, please identify the person or agency that holds custody of the child and whether they have legal custody, physical custody, or both.  
For a custodian, other than the surrendering party, please list the custodian:  
Custodian(s) \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_, State \_\_\_\_\_, Zip \_\_\_\_\_  
Telephone Number: Home: \_\_\_\_\_ Work: \_\_\_\_\_

11. a. There may be state assistance: money, clothes, health insurance, food aid and such, available to help you if you parent the child yourself.  
b. There is counseling available if you want to talk to a counselor about your choice before you sign a surrender form.  
c. You can talk to a lawyer who only represents you, if you want to, before you sign a surrender form.  
Do you understand that all these things are available? Yes ☐ No ☐

FURTHER, AFFIANT SAITH NOT.  
This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: Biological ☐ Legal ☐ Mother: \_\_\_\_\_  
Biological ☐ Legal ☐ Father: \_\_\_\_\_ of \_\_\_\_\_  
Name of Child \_\_\_\_\_

States to and subscribed before me  
this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
Notary Public: \_\_\_\_\_  
My commission expires: \_\_\_\_\_  
(A notary is necessary if information on this form is not reviewed by and acknowledged before a judge or official.)

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ACCEPTANCE BY AGENCY or PROSPECTIVE ADOPTIVE PARENT(S)

I/We \_\_\_\_\_ and \_\_\_\_\_, individually or I \_\_\_\_\_, on behalf of the licensed child-placing agency, \_\_\_\_\_, hereby accept the surrender of \_\_\_\_\_ (child) from \_\_\_\_\_ (surrendering party) and plan to adopt the surrendered child or for an agency, expect and intend to place this child for adoption with an appropriate family. I/We or the undersigned agency have physical custody of this child or will have physical custody upon discharge of this child from a healthcare facility. I/We or the undersigned agency agree(s) to assume responsibility for obtaining guardianship of the surrendered child through a court order within thirty (30) days of the date of the surrender. I/We or the undersigned agency agree(s), to be responsible for the care, custody, financial support, medical care, education, moral, and spiritual training of this child, pending an adoption. I/We have completed the Accepting Party's Pre-Acceptance Information Form. The information provided in that form is true to the best of my/our knowledge.  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Prospective Adoptive Parent

\_\_\_\_\_  
Signature of Prospective Adoptive Parent

\_\_\_\_\_  
Signature of Agency Representative and Title

**Judge or Official Attestation**

I interviewed the accepting parties and witnessed execution of the foregoing acceptance. The Accepting Party's Pre-Acceptance Information Form and any accepting individual's/individuals' court report based upon a current and approved home study are attached to this form. The Accepting Party's Pre-Acceptance Information Form is properly verified by a notary or I reviewed the information with the accepting parties and they have attested before me to the correctness of the form.  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Judge or Official's Signature \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Court or Employing Institution and Location: \_\_\_\_\_

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STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

ACCEPTING PARTY'S PRE-ACCEPTANCE INFORMATION FORM

Being duly sworn affiants would state:

1. a. I am \_\_\_\_\_, Prospective Adoptive Parent.  
b. Prospective Adoptive Parent's Date of Birth \_\_\_\_\_  
c. Prospective Adoptive Parent's Place of Birth \_\_\_\_\_  
d. Prospective Adoptive Parent's Marital Status \_\_\_\_\_

2. a. I am \_\_\_\_\_, Prospective Adoptive Parent.  
b. Prospective Adoptive Parent's Date of Birth \_\_\_\_\_  
c. Prospective Adoptive Parent's Place of Birth \_\_\_\_\_  
d. Prospective Adoptive Parent's Marital Status \_\_\_\_\_

OR

3. I am \_\_\_\_\_, representative of \_\_\_\_\_ a licensed child-placing agency with \_\_\_\_\_

4. The following costs have been paid or promised by \_\_\_\_\_ (me/us) for activities involving the placement of this child.  
Please include, amount paid or promised, to whom, by whom, date paid and type of service or cost:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. a. \_\_\_\_\_ I/We have physical custody of this child; or  
b. \_\_\_\_\_ I/We will receive physical custody of the child from the parent or legal guardian within five (5) days of this surrender; or  
c. \_\_\_\_\_ I/We have the right to receive physical custody of the child upon his or her release from a hospital or health care facility; or  
d. \_\_\_\_\_ Another person or agency currently has physical control of the child. I/We have presented to the court an affidavit of the person or agency required by T.C.A. § 36-1-111(d)(6) which indicates their waiver of right to custody of the child upon entry of a guardianship order pursuant to T.C.A. § 36-1-136(e).

6. Yes ☐ No ☐ I/We have presented to the court a currently effective or updated home study or preliminary home study of my/our home conducted by a licensed child-placing agency, a licensed clinical social worker, or the Tennessee Department of Children's Services as required by Tennessee law. (Not applicable for agency placements)

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\_\_\_\_\_

7. a. If the child is to be removed from Tennessee for adoption in another state, will there be compliance with the Interstate Compact on the Placement of Children.  
Yes ☐ No ☐ Not Applicable ☐.  
b. If yes, who will be responsible for preparing and submitting the ICPC package? \_\_\_\_\_

FURTHER AFFIANT(S) SAITH NOT.  
This \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Signature of Prospective Adoptive Parent

OR  
\_\_\_\_\_  
Signature of Prospective Adoptive Parent

\_\_\_\_\_  
Signature of Representative of Agency

Name of Agency: \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Notary Public  
My commission expires: \_\_\_\_\_

(A notary is necessary if information on this form is not reviewed by and acknowledged before a Judge or official.)

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REVOCATION OF SURRENDER BY A PARENT OR GUARDIAN

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_  
Being duly sworn according to law affiant would state:

1. I am:  
a. Mother: \_\_\_\_\_, or  
b. Father: \_\_\_\_\_, or  
c. Legal Guardian: \_\_\_\_\_ of: \_\_\_\_\_

2. a. Child's Name: \_\_\_\_\_  
b. Child's Date of Birth: \_\_\_\_\_  
c. Child's Place of Birth: \_\_\_\_\_  
d. Child's Sex: \_\_\_\_\_  
e. Child's Race: \_\_\_\_\_

3. On (Date) \_\_\_\_\_, I executed a surrender of my parental or guardianship rights to the child named in #2 to:  
a. Prospective Adoptive Parent(s) \_\_\_\_\_  
b. Licensed Child-Placing Agency \_\_\_\_\_  
c. Tennessee Department of Children's Services \_\_\_\_\_

4. The surrender was executed before: \_\_\_\_\_ (Name of Judge or Official)

5. I hereby revoke the surrender of the above-named child.

FURTHER AFFIANT SAITH NOT.

Signature: \_\_\_\_\_  
Biological \_\_\_\_ Legal \_\_\_\_ Mother: \_\_\_\_\_  
Biological \_\_\_\_ Legal \_\_\_\_ Father: \_\_\_\_\_  
Legal Guardian: \_\_\_\_\_

Sworn to and subscribed before me this day of \_\_\_\_\_, 20 \_\_\_\_.

This Revocation of Surrender was received by me on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Please Print: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Judge or Official

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**Surrender Documents:**

- ✓ Surrender Forms
- ✓ Medical Social Background Forms
- ✓ Mother's Affidavit
- ✓ Waiver of Interest and or Denial of Paternity for Legal Father
- ✓ Court Report/Homestudy (if directly to adoptive parents)
- ✓ T.C.A. §36-1-111(d)(6) Affidavit waiving custody (if applicable)
- ✓ Motion for Order of Partial OR Full Guardianship
- ✓ Order of Partial OR Full Guardianship



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## TERMINATION OF PARENTAL RIGHTS

### 6. Who Receives Certified Copies of the Surrender Packet? T.C.A. § 36-1-111(m)

- ✓ Surrendering parent
  - Without court report/home study
- ✓ Agency or Adoptive parents
  - Costs can be charged for certified copies
- ✓ Within 5 days to DCS adoption unit in Nashville
- ✓ Upon request:
  - Court where adoption/termination petition is filed
  - Party who is petitioning for adoption where child was not placed by DCS or licensed agency (costs can be charged)
  - DCS county office, licensed agency, or licensed social worker providing adoption supervision

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## Original Surrender Documents

### T.C.A. § 36-1-111(m)(1)(B)

- ✓ Entered on a special docket, styled "In re: (Child's Name)"
- ✓ Permanently filed in a separate and confidential file
- ✓ Maintain separate adoption order of guardianship minute book
- ✓ Kept locked and available only upon written approval of the court

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## TERMINATION OF PARENTAL RIGHTS

### 7. Revocation of Surrender: T.C.A. § 36-1-112(a)(1)

- (a) For any reason within three (3) calendar days of date of surrender unless any of the three (3) days falls on a Saturday, Sunday, or legal holiday - those days shall not be counted.
- (b) Person revoking must appear in person before the judge ( or judge's successor or substitute) who accepted the surrender

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## TERMINATION OF PARENTAL RIGHTS

(b) After the expiration of the three (3) calendar day revocation period, no surrender may be set aside, unless:

- T.C.A. § 36-1-111(c) • Within thirty (30) days of execution of surrender, an action is brought to set aside the surrender based upon duress, fraud, intentional misrepresentation, or invalidity
  - Clear and convincing evidence standard.
- T.C.A. § 36-1-118 • By order of the court pursuant to dismissal of adoption proceedings. Before order entered, court must give written notice of not less than five (5) days, excluding Saturdays, Sundays, and legal holidays to the following:
  - Person of entry to whom child was surrendered
  - Any parties to proceedings
  - DCS or licensed child-placing agency or licensed clinical social worker who conducted any studies involving placement of the child
  - Parent whose rights were terminated, but only if court will consider reinstatement of that parent's rights

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## TERMINATION OF PARENTAL RIGHTS

(c) Revocation Disposition T.C.A. § 36-1-112(b)

- Original revocation placed with original surrender
- Either personally give or send by certified mail, return receipt requested, certified copies to the following:
  - Child's parents
  - Prospective adoptive parents
  - Agency to whom child has been surrendered, either DCS or licensed child-placing agency
  - Counsel for prospective adoptive parents

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## TERMINATION OF PARENTAL RIGHTS

Revocation Disposition continued . . .

- Within three (3) days attach a certified copy of revocation to certified copy of surrender OR adoption petition containing parental consent and send by certified mail, return receipt requested to DCS adoption unit in Nashville
- If within five (5) days of receipt of revocation, a complaint is filed with the revocation court to show cause why the child would suffer immediate harm to child's health and safety if returned, then:
  - Preliminary hearing set within three (3) days of filing of complaint for probable cause hearing
  - If probable cause shown, then a final hearing on the merits shall be set within thirty (30) days of preliminary hearing, except for cause shown in a written order of the court entered on the record.

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## TERMINATION OF PARENTAL RIGHTS

8. Surrenders obtained in another state, foreign country, or state or federal penitentiary

- T.C.A. § 36-1-111(n)
- Party to whom child is surrendered is to file a certified copy in the Chancery, Circuit or Juvenile court of the county in which he or she resides, in which event the clerk is to process the surrender just as if surrender was taken before that clerk's judge.

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## TERMINATION OF PARENTAL RIGHTS

9. Parental Consents: T.C.A. § 36-1-117(g)

- Parental Consent by Un-related person - procedure used in conjunction with filing adoption petition whereby a person may sign the petition for purpose of giving parental consent.
- An Order Confirming Parental Consent is signed by the judge after person completes parental consent documents pursuant to T.C.A. § 36-1-111 (similar to surrender documents)
- Certified copy of Order Confirming Parental Consent is sent to DCS adoption unit in Nashville

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## TERMINATION OF PARENTAL RIGHTS

C. Involuntary Termination - T.C.A. § 36-1-113

1. Who may file petition? (separately or part of adoption petition)

- Prospective adoptive parents, including extended family members caring for related children
- Licensed child-placing agency having custody of the child
- Child's GAL
- DCS
- Child's parent under limited circumstance – T.C.A. § 36-1-113(b)(2)

2. Special notice provision to incarcerated person – T.C.A. § 36-1-113(f)

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## TERMINATION OF PARENTAL RIGHTS

### 3. Putative Father Registry Requirement

- Only check TN PFR - <https://www.tn.gov/dca/programs/parental-rights-care-and-adoption/tia-adoption-receiver-adopted-parents-fathers.html>
- Send PFR REQUEST for clearance within 10 days of filing petition OR state that PFR will be consulted within 10 days of filing petition
- Copy of PFR response to be provided upon receipt
- Don't have to check PFR if DNA test confirms biological father and he is identified in petition

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## ADOPTIONS

### A. Jurisdiction: T.C.A. § 36-1-115

1. Chancery OR
2. Circuit



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## ADOPTIONS

### B. Definitions:

#### 1. Order of Reference - T.C.A. § 36-1-102(37)

- The order from the court where the adoption petition is filed that directs DCS, licensed child-placing agency, or licensed social worker to conduct a home study or to complete a report of the status of the child who is the subject of an adoption proceeding
- Clerk to send to DCS or Agency

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## ADOPTIONS

### 2. Home Study - T.C.A. § 36-1-102(28)

The process in which individuals or families are assessed by the department or licensed child-placing agency, or a licensed social worker, as to their suitability for adoption and their desires with regard to the child they wish to adopt. The home study conforms to the requirements set by the department and it becomes a written document . . . The home study should be kept confidential, and at the conclusion of the adoption proceeding shall be forwarded to the department to be kept under seal.

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## ADOPTIONS

### 3. Final court report - T.C.A. § 36-1-102(22)

A written document completed by DCS, licensed child-placing agency, or licensed social worker after submission of any prior court reports in response to the court's order of reference. It gives information concerning the status of the child in the home of the prospective adoptive parents and gives a full explanation to the court of the suitability of the prospective adoptive parent(s) to adopt the child. The final court report is designed to bring the status of the proposed adoptive home and the child up to date immediately prior to finalization of the adoption and should be the last report the court receives before finalization of the adoption.

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## ADOPTIONS

### 4. Consent - T.C.A. § 36-1-102(16)

- The permission of a child fourteen (14) years of age or older given to the court, in chambers, before the entry of an order of adoption of such child.
- Process by which a parent co-signs the adoption petition, with the adoptive parents (including stepparent or relative adoptions), for the purpose of agreeing to the adoption and permits the court to enter an order of guardianship

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ADOPTIONS

Consent Form T.C.A. 36-1-117(i)

STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

1. I am (name of child) born on \_\_\_\_\_

2. I understand that (name of prospective adoptive parent(s)) have filed a petition to adopt me.

3. I understand that if the Court enters an order of adoption based upon the Petition, that I will become the legal child of \_\_\_\_\_ (name of prospective adoptive parent(s)) and that hereafter they will become my parents for all purposes, just the same as if I had originally been born to them.

4. I understand that, while I remain under eighteen (18) years of age, my adoptive parents will have the right to determine if I should contact or visit with anyone in my prior legal or birth family.

5. I understand that I will have the right to inherit property from my adoptive parents, and their descendants will have the right to inherit property from me or my descendants but only for property I acquire after the adoption order is entered.

6. No one has pressured me to agree to this adoption, and I believe that my adoption is in my best interest.

7. I freely and voluntarily, without pressure from anyone, consent to this adoption.

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

FURTHER AFFIANT SAYS: NOT

Please Print: \_\_\_\_\_

Signature: \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Please Print: \_\_\_\_\_

Judge of the \_\_\_\_\_ Court for \_\_\_\_\_ County, Tennessee

Signature: \_\_\_\_\_

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ADOPTIONS

C. Putative Father Registry Requirements IN Adoptions

✓ IN PFR - • Must register as a putative parent within 10 days of filing petition for adoption or within 10 days of petition for adoption

✓ PFR of state where the child was born

✓ PFR of state where child's mother was living or present (or have reason to believe was living or present) at the time of conception

• Send PFR REQUEST for clearance within 10 days of filing petition OR state that PFR will be resolved within 10 days of filing petition - (Copy of PFR response to be provided) upon to court and prior to adoption finalization

• Don't have to check PFR if DNA test confirms biological father and he is identified in petition

• Must provide a statement in petition if the State does not have a PFR

• If State does not permit access, does not provide a response to 30 days, or requires an unreasonable fee and diligent efforts are made to identify father, then court can waive PFR requirement

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ADOPTIONS

D. Types of Adoptions

1. Agency Placement

2. Private Placement

3. Relative

4. Step-Parent

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ADOPTIONS

AGENCY & PRIVATE

- Putative Father Response – T.C.A. § 36-1-116(b)(13)(A)
- Within 3 business days after filed petition, certified copy sent to DCS adoption unit AND to local DCS OR agency/social worker doing supervision
- Home Study Required – T.C.A. § 36-1-116
- Order of Reference issued w/in 5 days of filed petition

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ADOPTIONS

AGENCY & PRIVATE

- Certified copy of surrender documents to be made party of adoption record, kept confidential, placed in sealed envelope and remain under seal – T.C.A. § 36-1-116(e)(2)(A)
- Consent of Minor, if 14 or over
- Final Court Report

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ADOPTIONS

AGENCY & PRIVATE

- Final Order of Adoption
  - T.C.A. § 36-1-119, 36-1-120
  - Home study filed with the court and petition has been on file at least six months. However, court has discretion to deem it is in best interest of child to reduce the waiting period to three (3) months
  - If child has already resided in the home of petitioners for three (3) months, court has discretion to waive six (6) month waiting period if court determines it is in best interest of child
- Adoption proceeding must be completed or dismissed within one (1) year of filing petition, unless good cause shown why final order should not be entered

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**ADOPTIONS**

**RELATIVE & STEP-PARENT**

All Same Requirements EXCEPT:

- Home study may be waived - T.C.A. § 36-1-119(b)
- Order of Reference may be waived - T.C.A. § 36-1-119(b)
- Final Court Report may be waived - T.C.A. § 36-1-119(b)
- Final Order of Adoption waiting period may be waived - T.C.A. § 36-1-119(b)

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**Final Order of Adoption:  
T.C.A. § 36-1-120**

- ✓ Attorney Affidavit disclosing fees and expenses
- ✓ Agency Affidavit disclosing fees and expenses
- ✓ Final Order of Adoption with specific information included
- ✓ Certified copy of Final Order and affidavits sent to DCS adoption unit in Nashville
- ✓ Certified copies of Final Order to adopted person, adoptive parents or their attorney, upon their request at any time AND . . .



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**Final Order of Adoption:  
Obtain New Birth Certificate  
T.C.A. § 36-1-120(f)**

- Copy of certified Final Order with
- ✓ Application for Certificate of Birth OR
  - ✓ Application or Report of Foreign Birth AND
  - ✓ Fees to Registrar of Division of Vital Records of TN Department of Health in Nashville
- <https://www.tn.gov/content/dam/tn/health/documents/vital-records/P11-124-Certificate-of-Adoption.pdf>



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ADOPTIONS

D. Re-Adoptions: T.C.A § 36-1-106

- Law provides a distinction on re-adoption procedures depending on whether the adopted child:
  1. Has an IR-3 stamp on his/her visa (child is a US citizen) OR
  2. Has an IR-4 stamp (child is not a US citizen)

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ADOPTIONS

D. Re-Adoptions: Petition with IR-4 child

- Petition
- Evidence of foreign adoption, with certified translation
- No putative father response
- No court report
- No 6 month waiting period
- Attorney affidavit
- Agency affidavit
- Final hearing and Order

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ADOPTIONS

D. Re-Adoptions: Petition with IR-3 child

- Petition
- Evidence of foreign adoption (decree, order or certificate of adoption)
- Certified translation of evidence
- Proof of full and final adoption for U.S. Government (IR-3 Visa stamp or Certificate of Citizenship)
- With above documents, assign a docket number, file and enter documents, obtaining Order recognizing foreign adoptions
- NO hearing required, Only Order

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## ADOPTIONS

### D. Adult Adoptions

- Petition
- Adult being adopted to co-sign petition with adoptive parent
- Attorney affidavit
- Final hearing and Final Order

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## APPEALS

### III. Appeals

T.R.A.P. 8A provides for expedited appeals in termination of parental rights cases

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## RECORDS

### IV. Adoption Records

#### A. Confidentiality of Records: T.C.A. § 36-1-125

1. All documents filed in the context of a surrender or adoption action, and the information contained in those documents are confidential and may not be disclosed, except in the following situations:
  - By the judge, clerk, DCS's licensed child-placing agency, or licensed social worker in any act necessary for the adoption, custody or guardianship proceedings
  - By the above individuals for the placement, study, or supervision of a person for whom an adoption, custody or guardianship proceeding is pending
  - By the above individuals to carry out their duties consistent with the law.

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## RECORDS

2. The use of these records for any legal proceeding other than the adoption proceeding or termination of parental rights proceeding are only permitted in conjunction with a protective order restricting further disclosure or dissemination.

3. Unauthorized disclosure is a Class A misdemeanor.

4. An unauthorized disclosure for "personal gain or for a malicious purpose" is a Class E felony.

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## RECORDS

### B. Sealing of Records: T.C.A. § 36-1-126

#### 1. All court records are to be sealed

- (i) after the entry of a final order of adoption;
- (ii) after the entry of a final order dismissing the adoption;
- (iii) after the entry of an order revoking a surrender or parental consent;
- (iv) after the entry of an order dismissing a termination of parental rights proceeding filed in conjunction with an adoption proceeding; OR
- (v) upon conclusion of all termination of parental rights proceedings that were filed in conjunction with an adoption proceeding

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## RECORDS

2. In the event of an appeal of any ruling of the trial court in an adoption proceeding, records remain confidential "and shall not be open to inspection by anyone other than the trial or appellate courts, the clerk, the parties to the proceeding, or the licensed child-placing agencies or the licensed clinical social worker....that have been involved in the case."

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RECORDS

C. Access to Records: T.C.A. § 36-1-127

1. Pre-March 16, 1951 Records • All pre-March 16, 1951 adoption records and all records of adoptions involving the Tennessee Children's Home Society are open to adoptive persons and birth relatives and relatives by adoption.

2. Post-March 16, 1951 Records

- 1996 legislation
- For adoptive persons 21 years of age or older
- Records not open if the birth mother was a victim of rape or incest (unless she consents to the disclosure)
- No home study information is to be provided

3. Any person who is eligible to receive record access must submit a request for \_\_\_\_\_ access through the DCS post-adoption unit in Nashville in order to obtain written \_\_\_\_\_ authorization to access the record.

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RECORDS

D. Court-ordered Release of Records:  
T.C.A. § 36-1-138

Under specific guidelines, and for specific grounds that must be shown to the court, a movant may file a written, sworn motion to obtain access to information in files or records of adoption proceedings, or in an adoption record, sealed adoption record, sealed record, post-adoption record or adoption assistance record.

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RECORDS

The motion must be filed in:

• Court of original jurisdiction of adoption proceeding; or

• If no adoption proceeding has been filed, in Chancery or Circuit court of county where record is located or in Chancery or Circuit court of any county with population of 100,000 or greater, according to 1990 federal census; or

• If original court of jurisdiction no longer exists, then the Chancery court for the county in which such court was established or in Circuit or Chancery court in county with 100,000 or greater population, as of the 1990 federal census or subsequent census

• Only in Chancery court for Davidson county for those who have requested records under specific sections of the statute and claim to have been improperly denied access to information by DCS or Department of Health.

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RECORDS

E. Breathe Easy Provision: T.C.A. § 36-1-122

This provision, among other things, provides that "...failure of the clerk of the court...to perform any of the duties or acts within the time requirements of this part shall not affect the validity of any adoption proceeding."

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