

Termination of Parental Rights & Adoption 2025

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TERMINATION OF PARENTAL RIGHTS

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

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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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? T.C.A. § 36-1-111(b)(3) FORMS

- A. Tennessee Surrender signed by birthparent before and attested by Judge or Official
- B. Acceptance by Agency or Prospective Adoptive Parents, signed before and attested by Judge or Official
- 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
- E. Revocation of Surrender

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Surrender Checklist:

- ✓ 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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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

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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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.
- (a) 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

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

- T.C.A. § 36-1-112(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 or entity 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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(d) 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
- 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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9. Waiver of Interest & Notice T.C.A. § 36-1-111(s)

10. Denial of Paternity and Notice by a Legal Father T.C.A. § 36-1-111(t)

- the clerk is to process the surrender just as if surrender was taken before that clerk's judge

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11. 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

RECAP OF VOLUNTARY TERMINATION PROCEDURES

1. Surrender (any parent or guardian)
2. Waiver of Interest and Notice (putative father only)
3. Denial of Paternity (legal father only)
4. Parental Consent by un-related person
5. Parental Consent by related person

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TERMINATION OF PARENTAL RIGHTS

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

1. Who may file petition? (separately or part of adoption petition)
 - a. Prospective adoptive parents, including extended family members caring for related children
 - b. Licensed child-placing agency having custody of the child
 - c. Child's GAL
 - d. DCS
 - e. 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)
 - 2024 new language

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

Who gets Notice? T.C.A. § 36-1-117

Necessary Parties: legal parent, guardian, or putative father

- Legal Parent Defined: T.C.A. § 36-1-102(30)
- Putative Father Defined: T.C.A. § 36-1-102(45)
- Notice for Best Interest Only to custodian/guardian without right to consent

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3. Putative Father Registry Requirement

- Only check TN PFR - <https://www.tn.gov/dcs/program-areas/foster-care-and-adoption/fca/adoption-records/alleged-putative-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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4. Petition Requirements T.C.A. § 36-1-113(d)

Termination Grounds

- Grounds for Legal Parents T.C.A. § 36-1-113(g)(1)-(8), (10)-(15)
- Grounds for Putative Fathers T.C.A. § 36-1-113(g)(9)

Best Interest T.C.A. § 36-1-113(i)

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TPR GROUNDS

Abandonment T.C.A. § 36-1-113(g)(1)

T.C.A. § 36-1-102(1)(A)(i) Failure to Visit or Support

- 4 years old or older at the time of filing = 4 month abandonment period
- Less than 4 at the time of filing = 3 month abandonment period
- Burden of Proof Shifts to Respondent
 - Affirmative defense
 - Show failure to visit or support was not willful.
 - Standard is preponderance of evidence.
 - Waived if not plead (*In re Ashlynn H.* No. M2020-00469-COA-R3-PT (Tenn. Ct. App. May 28, 2021))

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- T.C.A. § 36-1-102(1)(B): “Token support” means that the support under the circumstances of the individual case, is insignificant given the parent’s means. Support is presumptively token support if it less than the amount of the minimum child support order established by the child support guidelines. The parent or guardian bears the burden of proving by preponderance of the evidence that any support provided was more than token support.
- T.C.A. § 36-1-102(1)(A)(ii)-(v)
- T.C.A. § 36-1-102(1)(L): Amended or supplemental pleadings can have additional abandonment periods; Use MOTION date for calculating abandonment period for supplemental petitions (2024 Amendment)
- Abandonment date does not include date petition was filed

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T.C.A. § 36-1-113(g)(2) – Substantial noncompliance with Perm. Plan

T.C.A. § 36-1-113(g)(3) – Persistent Conditions

- Removed from home, physical, or legal custody for 6 months
- No requirement for D/N Petition to be filed – just “allegation”
- Parent improvement at the time of trial for safe return

T.C.A. § 36-1-113(g)(8) Mental Incompetence

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

T.C.A. § 36-1-113(g)(5) – Parent sentenced more than 2 years for severe child abuse

T.C.A. § 36-1-113(g)(6)

- 10 year sentence or more, child under 8 at time of sentencing
- Alternative ground for a parent who has been incarcerated under a 6-year sentence, but one other termination ground exists

T.C.A. § 36-1-113(g)(7) First/Second degree murder or civil wrongful death of parent

T.C.A. § 36-1-113(g)(15) Attempted First/Second degree murder of parent

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

T.C.A. § 36-1-113(g)(4) Severe child abuse (defined 37-1-102)

- Now includes “inactions of parent” which may have led to abuse
- Courts can determine whether child is severe child abuse victim, regardless of identifying perpetrator
Courts are to determine child’s parents, guardians, relatives, and caregivers who provided care during the time period of abuse
- DCS must file TPR within 90 days of severe abuse finding
- DCS must file when a child has been in custody for 6 months and a parent has not made “reasonable progress” in obtaining custody
- DCS must file when 2 or more termination grounds are applicable to a parent
- Safe Haven child filing procedures streamlined

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T.C.A. § 36-1-113(g)(11)(A)

- Convictions of certain sexual offenses toward a child under similar laws of another state

T.C.A. § 36-1-113(g)(12) Trafficking for commercial sex act

T.C.A. § 36-1-113(g)(13) Child Trafficking

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T.C.A. § 36-1-113(g)(10)

- When a child is conceived resulting from particular crime –
Especially aggravated rape, etc.
- Certified Conviction proves ground

T.C.A. § 36-1-113(g)(16)

- Father's unlawful sexual penetration against the child's mother -
1) Force, without consent, mentally incapacitated, fraud
2) Child was conceived AND Father's convicted or guilty plea to a criminal offense
- Court must find C/C evidence

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YOU SHOULD KNOW...



A person is presumed to have knowledge that sexual activity leads to a pregnancy.

An adult has an affirmative obligation to inquire whether sexual activity has resulted in a pregnancy and a minor turning 18 has same obligation regardless of when the sexual activity occurred.

A lack of specific knowledge of a pregnancy or birth does not serve as a defense to TPR if the person failed to inquire or failed to attempt to inquire whether their actions resulted in pregnancy/birth.

T.C.A. § 36-1-113(s)

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T.C.A. § 36-1-113(g)(14) Failure to Manifest

- Examined at the time the petition was filed, not the time of trial
- Failed to Manifest *ability AND willingness* to assume legal and physical custody OR financial responsibility
In re Neveah M., No. M2019-00313-SC-R11-PT *21, (Tenn. Sept. 30, 2020) prove by clear and convincing proof that a parent or guardian has failed to manifest either ability or willingness, then the first prong of the statute is satisfied.
- Placing child would pose risk of substantial harm
 Real hazard or danger that is not minor, trivial, or insignificant, and harm must be more than a theoretical possibility

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BEST INTEREST

- Old law looked to 9 factors for making a Best Interest determination
- Now 20 “New” Best Interest factors (2021)
- T.C.A. § 36-1-113(i)(1)(A)-(T)
- Overarching presumption that “prompt and permanent placement in a safe environment” is in the best interest of the child. T.C.A. § 36-1-113(i)(2)

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- Court does not have to make specific findings of fact for all factors, just those that are relevant to the case. T.C.A. § 36-1-113(i)(3)
- Expert testimony not needed to prove a factor. T.C.A. § 36-1-113(i)(4)
- Applies to both “Parent” and “Guardian” in termination cases. T.C.A. § 36-1-113(5)

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- Urgency and the Child's Attachment Factors:

(M) Whether the parent has demonstrated a sense of urgency in establishing paternity of the child, seeking custody of the child, or addressing the circumstance, conduct, or conditions that made an award of custody unsafe and not in the child's best interest;

(D) Whether the parent and child have a secure and healthy parental attachment, and if not, whether there is a reasonable expectation that the parent can create such attachment;

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

(H) Whether the child has created a healthy parental attachment with another person or persons in the absence of the parent;

(I) Whether the child has emotionally significant relationships with persons other than parents and caregivers, including biological or foster siblings, and the likely impact of various available outcomes on these relationships and the child's access to information about the child's heritage;

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- New factors consider the Child's Trauma:

(F) Whether the child is fearful of living in the parent's home;

(G) Whether the parent, parent's home, or others in the parent's household trigger or exacerbate the child's experience of trauma or posttraumatic symptoms;

(R) Whether the physical environment of the parent's home is healthy and safe for the child;

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

- New factors discuss whether parent's efforts and adjustments have been beneficial and the success of parenting other children:

(O) Whether the parent has ever provided safe and stable care for the child or any other child;

(J) Whether the parent has demonstrated such a lasting adjustment of circumstances, conduct, or conditions to make it safe and beneficial for the child to be in the home of the parent, including consideration of whether there is criminal activity in the home or by the parent, or the use of alcohol, controlled substances, or controlled substance analogues which may render the parent unable to consistently care for the child in a safe and stable manner;

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

- New Factors speak to the quality of a parent's home and having consistency in meeting a child's basic needs:

(C) Whether the parent has demonstrated continuity and stability in meeting the child's basic material, educational, housing, and safety needs;

(P) Whether the parent has demonstrated an understanding of the basic and specific needs required for the child to thrive;

(Q) Whether the parent has demonstrated the ability and commitment to creating and maintaining a home that meets the child's basic and specific needs and in which the child can thrive;

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

- Old factor found regular visits weighed in favor of a parent, regardless of the child's experience at the visits:

Whether the parent or guardian has maintained regular visitation or other contact with the child;

- New factor speaks to the parent's use of the visitation:

(E) Whether the parent has maintained regular visitation or other contact with the child and used the visitation or other contact to cultivate a positive relationship with the child;

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

- Financial Support
Whether the parent or guardian has paid child support consistent with the child support guidelines promulgated by the department pursuant to T.C.A. § 36-5-101;
- New factor removes the reference to the Tennessee child support guidelines
(S) Whether the parent has consistently provided more than token financial support for the child;

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INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

PROCEDURE

- Service: Personal or Publication
- Required status conference 30 days after Answer filed
- GAL: TN Supreme Court Rule 13
- TPR Hearing: T.C.A. § 36-1-113(k)
 - 6 months after petition filed
 - 30 days to provide ruling after hearing
 - 30 days to enter final Order after ruling
 - Request Court of Appeals to expedite entry of Order
 - Findings of Facts and Conclusions of Law
- Termination AND finalization of adoption may be heard and decided at the same hearing IF the court determines it is in the child's best interest

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APPEALS

T.C.A. § 36-1-124(d): Notice of Appeal for TPR must not be filed by attorney who is not specifically authorized by client to file such notice

In re Bentley D. 537 S.W.3d 907, (Tenn. Nov. 22, 2017) Page 8
 “We emphasize that no appeal should be taken in a termination of parental rights proceeding without specific authorization from the client.”

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

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Post Adoption Contract “PACA”

- Post-adoption contact: visitation, communicating, sharing information about the child, biological parents, or adoptive parents, etc. after adoption
- T.C.A. § 36-1-145: Voluntary PACA may be agreed upon by birth parents, adoptive parents, and/or a child (if 14 years old or older) and filed in adoption proceedings
 - Enforceable until child turns 18
 - Court finalizing adoption has jurisdiction over enforcement and modification
- 4-tier Structure for Enforcement or Modification

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ADOPTIONS

Jurisdiction: T.C.A. § 36-1-115

1. Chancery OR
2. Circuit



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ADOPTIONS

Types of Adoptions

- | | |
|----------------------|------------------------------------|
| 1. Agency Placement | 5. Readoption |
| 2. Private Placement | 6. Recognition of Foreign Adoption |
| 3. Relative | 7. Adult |
| 4. Step-Parent | |

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ADOPTIONS

Filing Considerations

- With or without TPR
- Married or Single
- Residency
 - TN resident at the time of filing
 - Non-resident if guardianship/custody granted in TN to non-residents or agency
- Petition Requirements T.C.A. § 36-1-116
- Putative Father Response T.C.A. § 36-1-116(b)(13)(A)

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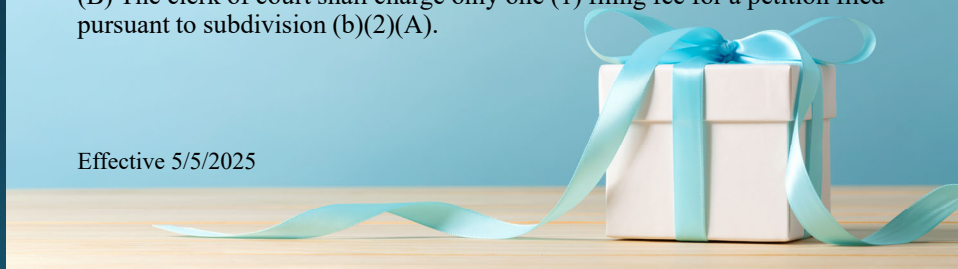
One Petition for Siblings

T.C.A. § 36-1-116(b)(2)

(A) Notwithstanding another law to the contrary, if the petitioners are seeking to adopt more than one (1) child at the same time and the children are siblings, then the petitioners may include all of the children in one (1) petition to adopt unless the court issues a written order finding that it is in the best interest of the children that separate petitions be filed.

(B) The clerk of court shall charge only one (1) filing fee for a petition filed pursuant to subdivision (b)(2)(A).

Effective 5/5/2025



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ADOPTIONS

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.



https://www.tn.gov/content/dam/tn/dcs/documents/licensing/TN_Adoption_Fee_Schedule.pdf

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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
- Written authorization to relinquish child for adoption by agency or by GAL for disabled child

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ADOPTIONS

Consent Form T.C.A. § 36-1-117(i)

CONSENT TO ADOPTION BY MINOR WHO IS FOURTEEN (14) YEARS OF AGE OR OLDER

STATE OF TENNESSEE

COUNTY OF _____

1. 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 he/she/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 SAITH 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

Putative Father Registry Requirements IN Adoptions

- ✓ TN PFR - <https://www.tn.gov/dcs/program-areas/foster-care-and-adoption/fca/adoption-records/alleged-putative-fathers.html>
- ✓ 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 consulted within 10 days of filing petition - Copy of PFR response to be provided upon receipt 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 in 30 days, or requires an unreasonable fee and diligent efforts are made to identify father, then court can waive PRF requirement

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ADOPTIONS

AGENCY & PRIVATE

- Home Study Required T.C.A. § 36-1-116
 - 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
- 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 part 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

DCS ADOPTIONS:

- DCS Legal Completes TPR
- Child must be available for adoption – “Full Guardianship”
- Eligible for Adoption Assistance
- Alternatives to Adoption: Custody, Guardianship Subsidized Permanent Guardianship, Foster Parents filing separate TPR

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Foster Parents - a lot of time periods...



6 months for significant relationship T.C.A. § 37-2-403 (b)(4)

9 months not just notice but maybe kind of party status T.C.A. § 37-2-415(a)(17)

12 months preference if child is available for adoption T.C.A. § 36-1-115(g)(1)

***Right to engage an attorney for the purposes of consultation and advice

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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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ADOPTIONS

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

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

RE-ADOPTIONS: Petition with IR-4 child

- ✓Petition for Readoption
- ✓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

RE-ADOPTIONS: Petition with IR-3 child

- ✓Petition for Recognition of Foreign Decree
- ✓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 and/or Certificate of Citizenship)
- ✓Order recognizing foreign adoption
- ✓NO hearing required, Only Order

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ADOPTIONS

ADULT Adoptions

- ✓Petition
- ✓Adult being adopted to co-sign petition with adoptive parent(s)
- ✓Attorney fee affidavit/declaration
- ✓Final hearing and Final Order

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



- ✓ Petition for Adoption
- ✓ Supporting Documents: Birth/Death/Marriage Certificates
- ✓ Order of Reference
- ✓ Putative Father Clearance
- ✓ Attorney Affidavit/Declaration disclosing fees and expenses
- ✓ Agency Affidavit disclosing fees and expenses
- ✓ Order of Guardianship (Agency only)
- ✓ Final Decree/Order of Adoption with specific language
- ✓ Copy of certified Final Order with
 - ✓ Application for Certificate of Birth
- ✓ Fees to Division of Vital Records of TN Department of Health in Nashville

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FINAL ADOPTIONS

- Final Adoption Hearing
 - Open court or Chambers
 - Adoptive parents testify
 - Social worker may be required to testify
 - Relationship established from date of signing Final Decree
- Statute of Repose - T.C.A. § 36-1-122
 - Reduced from 1 year to 9 months (2023)

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New Birth Certificates

Mandate: State registrar shall issue the new birth certificate within forty-five (45) days of receipt of the required paperwork and requisite fee

*New Form

<https://www.tn.gov/health/health-program-areas/vital-records/applications.html>

T.C.A. § 68-3-312(g)

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Adoption Paid Family Leave

2023:

- 6-week paid parental leave policy for state employees after the birth or adoption of a child
- Used within twelve (12) months of the birth/adoption

"Eligible employee" means a teacher, principal, supervisor, or other licensed individual employed in public school AND who has been employed full time with a local education agency or public charter school for at least twelve (12) consecutive months

NEW: "Adoption" includes that period of time beginning with the filing of an adoption petition and the initial placement of a minor child within the residence of a prospective adoptive parent pursuant to a court-ordered parental power of attorney or guardianship or custodial order until the issuance of a final order of adoption by the court

Effective 4/11/25

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Adoption Federal Tax Credit

Claim Adoption Credit on your federal income taxes for up to \$16,810 in qualified expenses for 2024.

If you receive adoption benefits from your employer, you can also exclude up to \$16,810 of those benefits from your income.

The credit and the exclusion apply to international, domestic, private or public foster care adoptions.

The credit is nonrefundable, so you can't get back more than you owe in taxes.

<https://www.irs.gov/credits-deductions/individuals/adoption-credit>

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OTHER CONSIDERATIONS

New Social Security Card

Juvenile Court: T.C.A. § 36-1-116(f)

- Juvenile Court jurisdiction continues until Adoption Petition is filed but Juvenile Court retains jurisdiction for reviews/foster care perm. Hearings
- Only the **adoption court** has jurisdiction to modify visitation or custody of the child while adoption is pending

Alternative to adoption

- Does not require TPR

SPG

- Requires preexisting relationship (kinship or fictive kin)
- Must be in home six months
- Eligible for subsidy

PG

- No prior relationship required
- Not eligible for subsidy

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OTHER CONSIDERATIONS

Alternatives to adoption

- Permanent Guardianship & Subsidized Permanent Guardianship
- Does not require TPR
- SPG requires preexisting relationship (kinship) and eligible for subsidy
- PG does not require prior relationship but not eligible for subsidy

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Watch for Out of State Agencies/Attorneys

T.C.A. § 36-1-108(a)(5): A child-placing agency or attorney not licensed in this state **MUST** secure the services of a child-placing agency or attorney licensed in TN to provide adoption-related services to any expectant parent or child in this state.



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OTHER CONSIDERATIONS

Adoption 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 specific situations.
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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OTHER CONSIDERATIONS

Access to Records: T.C.A. § 36-1-127

1. Pre-March 16, 1951 Records - Adoption records and 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
 - For adoptive persons 18 years or older – Effective 7/1/25
 - Records not open if the birth mother was a victim of rape or incest (unless she consents to the disclosure or is deceased)
 - 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

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OTHER CONSIDERATIONS

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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Discussion



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