

VOLUNTARY TERMINATION OF PARENTAL RIGHTS (Called RELINQUISHMENT)

Updated Edition

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VOLUNTARY TERMINATION OF PARENTAL RIGHTS (Called RELINQUISHMENT)

IMPORTANT: When reading this document: In general, all states have specific provisions similar to the general provisions covered in this paper. The terminology and the legal apparatus may differ slightly but in general, the discussion that follows, applies to ALL 50 States and DC. Federal and states court cases set precedents that quickly move across state boundaries. The information provided here is designed to answer your basic questions and to ascertain what options are available to you. Your next step, after reading this information, is to seek legal help from an attorney knowledgeable in the specific statutes in the state where the voluntary termination is to take place. (This is usually the state that has custody control over the child and has set the child support payments.)

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NOTE: Different states have different names for the State Agencies that are responsible for Termination. In this report we use the generic term THE GOVERNMENTAL AGENCY (TGA).  
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INTRODUCTION

EFFECT OF PARENTAL RIGHTS TERMINATION

Civil abuse and neglect proceedings may result in the profound consequence of termination of parental rights. The legal effects of termination are substantial. After termination, a natural parent's custodial rights are completely abolished. The order of the court terminating parental rights divests the natural parent of all legal rights and privileges with respect to the child and dispenses with the necessity for consent to or notice of adoptive proceedings concerning the child.

Termination of parental rights is a necessary prelude to adoption. Adoption is the legal process by which a child acquires parents other than the natural parents and parents acquire a child other than their natural child. The resulting legal relationship is identical to that of a natural parent and child. Termination of parental rights severs the child's legal tie to his or her natural parents so that

adoption can occur. Thus, termination of parental rights is a critical tool to achieve permanency for children in the foster care system who cannot return home.

In most ordinary adoption cases not involving abuse or neglect proceedings, the natural parents agree to give up their parental rights and consent to adoption. In cases where a child is under the jurisdiction of the children's court based on alleged parental abuse or neglect, termination of parental rights also can be voluntary. Voluntary terminations of parental rights are called "relinquishments." However, in the child protection context, terminations of parental rights are likely to be contested. An involuntary termination is called a "termination of parental rights" and may involve a contested judicial proceeding if the parents remain involved in the case.

DUE PROCESS CONCERNS

Because termination of parental rights proceedings affect the fundamental liberty interest of natural parents in the care, custody and management of their children, they raise both procedural and substantive due process concerns. The U.S. Supreme Court has identified a fundamental privacy interest in raising one's children. The Court called the right to conceive and raise one's children "essential" in *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923). In *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944), the Court stated that "it is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."

In *Stanley v. Illinois*, 405 U.S. 645 (1972), the Supreme Court invalidated, on both due process and equal protection grounds, an Illinois law under which children of unwed fathers became state wards upon the death of the mother. The Stanley Court declared that Illinois parents were constitutionally entitled to a hearing on their fitness before their children were removed from their custody. In *Santosky v. Kramer*, 455 U.S. 745 (1982), the Court held that before a state may sever the rights of parents in their natural child, due process requires the state to prove its allegations by at least clear and convincing evidence.

New Mexico case law in the area of termination of parental rights traditionally focused on the grounds for involuntary termination and the sufficiency of the evidence for termination in particular cases. Recently, however, the courts have been underscoring the importance of procedural due process guarantees. In *State ex rel. CYFD v. Erika M.*, the Court of Appeals emphasized that termination of parental rights "implicates a significant deprivation of a liberty protected by due process" and that procedural due process "guarantees a

parent a fair opportunity to be heard and present a defense." 1999-NMCA-036, ¶26, 126 N.M. 760, 765. In State ex rel. CYFD in the Matter of Ruth Anne E., the court held that an incarcerated father has the right to meaningful participation in the hearing, including the right to review the evidence presented against him and present evidence on his behalf, and an opportunity to challenge the evidence presented. 1999-NMCA-035, ¶25, 126 N.M. 670, 677.

CONSTRAINTS UNDER THE CHILDREN'S CODE AND ASFA

In order to comply with state statutes the state must file or join in a petition to terminate parental rights if the child has been in foster care for 15 of the most recent 22 months. The petition must be filed by the end of the 15th month in foster care, as calculated under the regulations. There are certainly exceptions to this rule, including an exception for situations where the state has compelling reasons for deciding that filing a petition would not be in the best interests of the child in question. New Mexico adopted similar provisions by legislation in 2001 and 2003 but the legislation lists specific reasons that may be compelling, rather than require compelling reasons generally. TGA must also consider the date the child entered foster care to be the date of the first judicial finding that the child has been abused or neglected, or 60 days after the child was removed from the home, whichever occurred first.

VOLUNTARY TERMINATION OF PARENTAL RIGHTS (RELINQUISHMENT): PROCEDURE

OVERVIEW

Occasionally, parents who are parties to an abuse and neglect action decide to voluntarily relinquish their parental rights. Relinquishment can be a positive gesture that allows a parent a greater sense of dignity and control than a full-blown contested termination of parental rights trial.

A relinquishment is heard in the context of the existing abuse and neglect proceeding, if a proceeding is pending, and is not a separate judicial proceeding. A parent may relinquish parental rights only with "The Governmental Agency" (TGA) consent

Relinquishment usually occurs as adoption plans are being made. However, relinquishment is sometimes sought where the likelihood of adoption is remote, as where the other parent does not want to relinquish his or her parental rights. If a proposed relinquishment of parental rights is not in contemplation of adoption, the court may not allow the relinquishment unless it finds that:

Good cause exists;

TGA has made reasonable efforts to preserve the family; and
Relinquishment is in the child's best interest. A parent who relinquishes under this subsection remains financially responsible for the child and the court may order the parent to pay the reasonable costs of the child's support.

COUNSELING REQUIRED

Parent respondents in a civil abuse and neglect action must receive counseling before signing a relinquishment of parental rights, although counseling can be waived by the court for good cause. The counseling must meet the following specific requirements:

Counseling may be provided by a trained counselor, TGA or another agency, although generally it is provided by TGA. Counseling should be private for a minimum of one session for adult parents. (1). Parents who are minors must have counseling for a minimum of two sessions, one of which must be conducted without the minor parent's parent or guardian. Counseling must be conducted in the primary language of the person receiving the counseling. Counseling must cover the alternatives to and the consequences of relinquishment and adoption. (2). After counseling is completed, a counseling narrative must be prepared pursuant to TGA regulations to accompany the relinquishment form to be filed with the court.

RELINQUISHMENT FORM

There are also specific requirements for the form of the relinquishment. The relinquishment must be in writing and signed by the parent relinquishing. It must state all of the following under:

Date, place and time of execution.

Date and place of birth of the prospective adoptee and any names by which the prospective adoptee has been known.

Name and address of TGA

That the person executing the relinquishment has been counseled as provided in by a certified counselor of the person's choice and that with this knowledge the person is "voluntarily and unequivocally" consenting to the adoption of the named prospective adoptee.

That the consenting party has been advised of the legal consequences of the relinquishment by independent legal counsel or a judge.

That the relinquishment cannot be withdrawn.

That the person executing the relinquishment has received or been offered a copy of the relinquishment.

That a counseling narrative has been prepared pursuant to TGA regulations and is attached to the relinquishment form.

That the person who performed the counseling meets the requirements of the State Statutes.

That the person executing the relinquishment waives further notice of the adoption proceedings.

If English is not the first language of the relinquishing parent and the relinquishment is in English, the person taking the relinquishment must certify in writing that the relinquishment document was read and explained in the person's first language;

That the meaning and implications of the document were fully understood by the person; and

The name of the individual who read and explained the document.

EXECUTION OF THE RELINQUISHMENT

Generally, a relinquishment of parental rights is signed before and approved by a judge who has jurisdiction over adoption proceedings. (1). Relinquishments in a pending abuse and neglect proceeding must be heard within the context of that proceeding. A court hearing for the purpose of taking a relinquishment is supposed to take place within seven days of the request for a setting. In all hearings concerning relinquishment of parental rights to GTA, the child must be represented by a guardian ad litem.

The relinquishment hearing enables the judge to review the relinquishment form with the relinquishing parent and that parent's counsel and to ascertain that the parent understands the legal consequences of relinquishment. If the parent's first language is not English, a translator might be present in court to confirm that the relinquishing parent does indeed understand the form and the

consequences of the relinquishment. In any case, the judge can use the opportunity to confirm that counseling was received as required by law and to ascertain whether TGA and the guardian ad litem consent to the relinquishment.

Once the relinquishment is signed, it should be filed with the court. If an adoption petition is being heard outside the abuse or neglect proceeding, the relinquishment must also be filed with the court in which the adoption petition is filed.

Practice Note. Several entities either want or require originally signed relinquishment documents. These include the court approving the relinquishment, the adoption social worker, the adoption attorney, and the adoption court. Hence, it is recommended that multiple originals be signed at the time of relinquishment.

FINALITY

Whether a relinquishment can be withdrawn depends on the governing law. Under the Indian Child Welfare Act, parents of an Indian child who are relinquishing may withdraw their consent "for any reason at any time prior to the entry of a final decree of termination or adoption...and the child shall be returned to the parent." Because of ICWA, which imposes stringent requirements on relinquishments of Indian children parents of Indian children have a greater ability to withdraw their consent to relinquishments than do other parents.

In cases in which ICWA does not apply, a relinquishment may be withdrawn only prior to the entry of a decree of adoption and only on the basis of fraud. (I). The New Mexico Supreme Court has stressed that fraud is the only ground upon which a person can withdraw a relinquishment and consent to adoption. State ex rel. HSD in the Matter of Kira M., 118 N.M. 563, 570 (1994). In Kira M., the court affirmed denial by the children's court of a biological mother's motion to withdraw consent, which did not allege that consent was given due to fraud. The court observed, though, that the children's court has "the ability under its reservoir of equitable power to protect the natural parents in exceptional circumstances." 118 N.M. at 570.

VOLUNTARY TERMINATION OF PARENTAL RIGHTS (RELINQUISHMENT): SPECIAL CIRCUMSTANCES

MINOR PARENTS

A relinquishment executed by a minor parent cannot be revoked simply because of the parent's minority. New Mexico requires minor parents seeking to relinquish to undergo a minimum of two separate counseling sessions prior to relinquishment, one of which must be without the presence of the minor parent's parent or guardian.

Very occasionally, a minor may be both the subject of an abuse and neglect case and a respondent in the same case. This situation means that a child might have both a guardian ad litem and respondent's counsel.

PARENTS OF INDIAN CHILDREN

The Indian Child Welfare Act imposes specific requirements on a parent of an Indian child who voluntarily consents to termination of parental rights. 25 U.S.C. §1913(a). The consent must be in writing and recorded before a judge of a court of competent jurisdiction. The presiding judge must certify in writing that the consent's terms and consequences were fully explained in detail and fully understood by the parent. The judge also must certify either that the parent fully understood the explanation in English or that it was translated into a language that the parent understood. ICWA declares invalid any consent given prior to or within ten days after birth of the Indian child.

CONDITIONS ON RELINQUISHMENT

New Mexico law discourages conditional relinquishments and states that "[u]nconditional consents or relinquishments are preferred." Conditional relinquishments must be for good cause and must be approved by the court. If the desired condition is for specific adoptive parents or requires the other parent to consent before the adoption decree is entered, the condition is considered for good cause.

Practice Note. Where relinquishment is being made to TGA and the condition being requested is for specific adoptive parents, TGA requires that an adoptive home study be approved and a placement agreement signed with the designated adoptive parents before it agrees to the conditional relinquishment.

There are specific time frames for conditions. Any and all conditions must be met within 180 days of the conditional consent or relinquishment or the conclusion of any litigation concerning the petition for adoption. The court may extend the 180 day time frame for good cause. If the condition is not met within the required time period, the relinquishment is not effective. Conditions, while they may seem like a good idea at the time, can also result in permanency being delayed.

If the condition desired is one of continued contact, the only way to have continued contact between the biological family and the child is through an open adoption. Under TGA policy, the condition itself is acceptable only until the adoption is finalized. If the adoptive family is identified within the 180 days, the placement social worker will approach them about an open adoption.

RELINQUISHMENT CHECKLIST

PRELIMINARY MATTERS

- Appearances
- Notice of Hearing
- Language or cognitive challenges

IF RELINQUISHMENT TO TGA; CONSENT BY TGA

IF NOT IN CONTEMPLATION OF ADOPTION:

- Good cause
- Reasonable efforts to preserve family
- Best interests of the child

COUNSELING

- Meets all requirements state statutes
- Counseling narrative filed with court

FORM OF RELINQUISHMENT

- Signed by parent relinquishing
- Meets all requirements of state statutes

- Parent understands legal consequences

IF INDIAN CHILD

- Terms/consequences explained to/understood by parent
- Explanation in language parent understands
- More than 10 days since birth

IF CONDITIONAL RELINQUISHMENT

- Good cause
- Condition satisfied within 180 days

STATE SECTION

Alabama

Who Must Consent:

- The mother.
- The presumed father, regardless of paternity if married to the mother.
- The agency to whom the child has been relinquished.
- The putative father if he has responded to notice.
- A guardian ad litem must be appointed for a minor parent.

Consent of Adoptee:

A child 14 years or older must consent to the adoption, except where the court finds that the child does not have the mental capacity to consent.

When Parental Consent is Not Needed:

Parent has:

- Abandoned the child.
- Fails to respond to notice.
- Has had rights terminated.
- Is found to be incompetent.
- Has relinquished child to placing agency.
- Is deceased.
- Alleged father signs affidavit denying paternity.
- Natural father unknown.

When Relinquishment Can Be Signed:

Any time prior to or after the birth of the child (see statute), however the termination process does not occur until after birth (see Time for Revocation below).

How Relinquishment Must Be Signed:

Consent of mother before birth must be signed and confirmed before a probate judge. Other consents may be executed in presence of judge, court clerk, or any public officer or notary public.

Time for Revocation:

Can be withdrawn for any reason within 5 days of birth of child or signing of consent, whichever comes later; within 14 days if court finds it consistent with child's best interest.

Can be withdrawn any time prior to final decree for fraud, duress, undue influence, or mistake.

Alaska

Who Must Consent:

- The mother.
- The father if married to the mother.
- The father by adoption, or otherwise legitimized.
- Any person lawfully entitled to custody or consent.
- The court.

Consent of Adoptee:

A child 10 years or older must consent to the adoption, unless the court in the child's best interest dispenses with consent.

When Parental Consent is Not Needed:

Parent has:

- Abandoned the child.
- Failed to communicate with or support the child.
- Had rights terminated.
- Been declared incompetent.
- The child is 19 years or older.

When Relinquishment Can Be Signed:

May be executed any time after the child's birth.

How Relinquishment Must Be Signed:

Consent is executed:

- Before the court.
- Before a person authorized to take acknowledgments.

Time for Revocation:

May be withdrawn before entry of decree for any reason within 10 days of executing consent.

After 10 day period, court must find withdrawal to be in child's best interest.

Consent to adoption may not be withdrawn after the entry of a decree of adoption.

Arizona

Who Must Consent:

- The birth or adoptive mother.
- The father if married to the mother or otherwise established paternity.
- Any guardian of the child or agency which has been given the child to place for adoption.
- Minority of parent does not affect competency to consent.

Consent of Adoptee:

A child 12 years or older must consent to the adoption in open court.

When Parental Consent is Not Needed:

Parent has:

- A parent has had rights terminated.
- A parent has previously consented that an agency place the child.
- When a guardian has been appointed for the adult parent
- A putative father who does not file claim of paternity waives right of notice.

When Relinquishment Can Be Signed:

Consent must be executed no sooner than 72 hours after the birth of the child.

How Relinquishment Must Be Signed:

Consent is executed in writing, witnessed by 2 or more credible witnesses, and acknowledged before a notary public.

Time for Revocation:

Consent is irrevocable unless obtained by fraud, duress, or undue influence.

Arkansas

Who Must Consent:

- The mother.
- The father if married to the mother or otherwise has established paternity.
- Any person or agency lawfully entitled to custody.
- The court.

Consent of Adoptee:

A child 10 years or older must consent to the adoption, unless the court in the child's best interest dispenses with consent.

When Parental Consent is Not Needed:

Parent has:

- Deserted a child.
- Failed to communicate or provide care or support for the child.
- Relinquished rights or had them terminated.
- Been declared incompetent.

When Relinquishment Can Be Signed:

Can be executed any time after the birth of the child.

How Relinquishment Must Be Signed:

- Must be executed in the presence of a judge or authorized person.
- If a child is old enough to grant consent, he must do so in the presence of a judge.
- If parent is a minor, the guardian ad litem must sign the consent.

Time for Revocation:

Consent to adoption cannot be withdrawn after the entry of a decree of adoption.

A consent to adopt may be withdrawn within 10 days after it is signed or the child is born whichever is later.

California

Who Must Consent:

The birth parents, if living.

The parent having custody if the other parent:

- fails to communicate with and support the child and
- fails to respond to notice of adoption.

A married person may not adopt a child without the consent of the spouse.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

Parent has:

- Relinquished rights or had them terminated.
- Deserted the child.
- Willfully fails to contact or support the child for one year.

When Relinquishment Can Be Signed:

In a direct placement, consent may only take place after the discharge of the birth mother from the hospital.

Relinquishment to an agency can take place any time after the birth of the child.

How Relinquishment Must Be Signed:

- In a direct placement, consent must take place in the presence of an Adoption Service Provider or other delegated agent, who has advised the parents of their rights.
- In an agency adoption, a form is signed before 2 witnesses and acknowledged before an official of the agency.

Time for Revocation:

In a direct placement, after consent has been given, the parents have 30 days to submit a signed revocation and request return of the child or sign a waiver of the right to revoke consent.

In agency adoption, consent is final and may only be rescinded by mutual consent, unless the birth parent has specified an adoptive parent and that placement is not finalized; then the parent has 30 days to rescind.

Colorado

Who Must Consent:

Written, verified consent is required from:

- Parents.
- A guardian of a child whose parents are deceased.
- A parent in a stepparent adoption.

Consent of Adoptee:

Children must undergo counseling. Written consent must be obtained from any child age 12 years or older.

When Parental Consent is Not Needed:

Parent has:

- Parent's rights have been terminated due to parent's unfitness.
- Parent has failed to make contact or provide support the child.
- Child has been out of parent's home for one year.

When Relinquishment Can Be Signed:

As of July 1, 2003, a new expedited process allows expectant parents to sign an affidavit before the birth of the child that indicates their intent to relinquish, and waives the right to contest once the affidavit has been filed with the court. This document cannot be filed with the court until 72 hours following the child's birth. Otherwise, consent may be executed any time after the birth of the child.

How Relinquishment Must Be Signed:

Parent must obtain counseling from the Department of Social Services and petition the court.

Time for Revocation:

Consent may be revoked only if, within 90 days after entry of order, it is established by clear and convincing evidence that it was obtained by fraud or duress.

Connecticut

Who Must Consent:

- Any statutory parent.
- A surviving parent when one parent has died.
- An unwed mother provided that the putative father has received notice or had rights terminated.
- The child's guardian.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

Parent has:

- Had rights terminated.
- Abandoned the child.
- Caused the child non-accidental injury.
- Failed to maintain a relationship with the child for at least one year.
- Killed another child of the parent or was convicted of sexual assault resulting in the conception of a child.

When Relinquishment Can Be Signed:

Mother cannot consent until at least 48 hours after birth.

How Relinquishment Must Be Signed:

- A petition for voluntary relinquishment must be approved by the court.
- Relinquishment by a minor parent must be approved by a guardian ad litem.

Time for Revocation:

A petition to set aside termination may be filed prior to final decree.

The court will consider the child's best interests.

Delaware

Who Must Consent:

- Consent shall be granted by the Department or agency to whom rights are vested.
- In cases of adoption by a stepparent or blood relative, consent shall be granted by the biological mother and father.

Consent of Adoptee:

A child 14 years or older must provide written consent unless the court finds it in child's best interest to waive consent.

When Parental Consent is Not Needed:

- The child has been abandoned.
- The parent is legally incompetent.
- The parent is convicted of a felony where a child has been harmed.
- There is a history of neglect or chronic abuse.

When Relinquishment Can Be Signed:

- Consent by mother can be given any time after child's birth.
- Consent by natural father may be executed prior to or after the child's birth.

How Relinquishment Must Be Signed:

- Consent shall be written, notarized, and annexed to petition if parental rights have not been previously terminated.
- Consent executed by a parent or guardian must be signed or confirmed in the presence of a judge or other designated representative.

Time for Revocation:

Within 60 days of filing petition of consent, a person wishing to revoke may petition the court.

The court will decide if revocation is in child's best interest.

District of Columbia

Who Must Consent:

- Both parents, if living.
- The court-appointed guardian.
- A licensed child placing agency if parental rights have been terminated.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

When a parent:

- Cannot be located.
- Has abandoned the child.
- Has failed to support the child for at least 6 months.
- Has relinquished all rights to an agency.

When Relinquishment Can Be Signed:

- No relinquishment of rights can be made within the first 72 hours after a child's birth.
- The parent must first undergo counseling.

How Relinquishment Must Be Signed:

Consent must be executed before an officer authorized to take acknowledgments, or a representative of a child-placing agency or the Mayor's office.

Time for Revocation:

Any voluntary relinquishment may be automatically revoked by a verified writing submitted to the agency within 10 calendar days.

Florida

Who Must Consent:

- The mother.
- The father if child was conceived or born while married to the mother or has otherwise established paternity. Effective July 30, 2003: Biological fathers have 30 days from the birth of the child to file.
- If parental rights have been terminated, a licensed child-placing agency or the department.

Consent of Adoptee:

A child 12 years or older must consent, unless the court determines it is in child's best interest to dispense with consent.

When Parental Consent is Not Needed:

- The parent abandons the child.
- Parental rights have been terminated.
- The parent is mentally incompetent.
- A guardian or custodian is found to be withholding consent unreasonably.

When Relinquishment Can Be Signed:

- Written consent must be executed after the birth of the child.
- Consent will be implied if the location or identity of a person whose consent is required, but is not known, and that person has been served with constructive notice (i.e., posted in the newspaper, etc.).

How Relinquishment Must Be Signed:

- In an agency adoption, consent is by affidavit from an authorized representative.
- In direct placements, parents execute consent in the presence of 2 witnesses, acknowledged by a notary public.

Time for Revocation:

Consent to the adoption of a minor who is to be placed with identified prospective parents may be withdrawn only when the court finds that the consent was obtained by fraud or duress.

Consent to the adoption of a minor not placed pursuant to the above may be revoked within three days or anytime prior to the placement, whichever is later, unless the consent was obtained by fraud or duress.

Georgia

Who Must Consent:

Any living parent or guardian must voluntarily and in writing surrender all rights to the child to the department or child placing agency.

Consent of Adoptee:

A child 14 years or older must consent in the presence of the court.

When Parental Consent is Not Needed:

- The child has been abandoned and parent cannot be found.
- Parent is insane or otherwise incapacitated.
- Parent has failed to contact or support the child.

When Relinquishment Can Be Signed:

Consent may be executed any time after the birth of the child.

How Relinquishment Must Be Signed:

- In an agency adoption, consent may be executed before a notary and representative of the agency.
- In a direct placement, it may be executed before a notary.

Time for Revocation:

Parent may withdraw consent within 10 days.

The surrender document is not valid unless it states the right of withdrawal.

There are no express statutory grounds for revocation, but consent may be invalid if executed under fraud, duress or incapacity.

Hawaii

Who Must Consent:

- The mother.
- A legal father.
- An adjudicated or presumed father.
- A natural father who demonstrates a reasonable degree of interest.
- Any person or agency having legal custody; or the court having jurisdiction over the child's custody.
- The court if the legal guardian is not empowered to consent.

Consent of Adoptee:

A child 10 years or older must consent, unless the court dispenses with the need.

When Parental Consent is Not Needed:

If a parent has:

- Deserted the child for 90 days.
- Voluntarily surrendered care and custody to another for 2 years.
- Has failed to support or contact the child for 1 year.
- Had parental rights terminated.
- Been declared mentally ill or retarded.

When Relinquishment Can Be Signed:

May be given following the 6th month of pregnancy, provided that no judgment may be entered until after the birth of the child and petitioners have reaffirmed their desire to adopt. (see statute)

How Relinquishment Must Be Signed:

No adoption decree shall be granted without a hearing at which anyone who needs to consent must appear, unless expressly excused by the court.

Time for Revocation:

Consent cannot be withdrawn after the child is placed with prospective adopters unless the court finds it would be in the child's best interest.

Idaho

Who Must Consent:

- If the Child was conceived in a marriage, by living parents.
- If the child was born outside of marriage then by the mother and the adjudicated biological father.
- Any legally appointed custodian or guardian of the adoptee.
- The agency that has been authorized to place the child.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

If a parent:

- Has had parental rights terminated.
- Has abused, neglected, or abandoned the child.
- Has a mental illness or deficiency.
- Has caused the child to be conceived as a result of rape or incest.
- Has killed child's other parent.
- Is not the natural parent.

When Relinquishment Can Be Signed:

Not addressed in the statutes reviewed. By implication, consent may be executed any time after the birth of the child.

How Relinquishment Must Be Signed:

Consent must be executed before any authorized officer, district judge or magistrate on a form found in the Idaho Code.

Time for Revocation:

If the parent revokes consent and petitions for custody of the child, the parent must reimburse the adoptive parents for expenses paid.

Illinois

Who Must Consent:

- The mother.
- The father if married to the mother or if he has established paternity.
- A legal guardian.
- Any person or agency having legal custody.

Consent of Adoptee:

A child 14 years or older must consent. The court may waive consent if child is in need of mental treatment or is mentally retarded.

When Parental Consent is Not Needed:

If a parent:

- Is found to be an unfit person.
- Is found not to be the biological or adoptive father of the child.
- Has waived his parental rights.
- Caused the child to be conceived as a result of sexual abuse.

When Relinquishment Can Be Signed:

- The mother's consent shall not be taken less than 72 hours after the child's birth.
- A father may consent before or after the birth.
- Consent may be given to a standby adoption by a terminally ill parent to become effective when the parent dies or requests finalization.

How Relinquishment Must Be Signed:

- Consent to an agency may be take by an agency representative.
- In a direct placement, consent is acknowledged in court unless the court waives the appearance.
- Forms to be used are contained in the statute.

Time for Revocation:

Consents not revoked within 72 hours after the birth are irrevocable unless obtained by fraud or duress.

The father may revoke consent within 72 hours after the birth.

Indiana

Who Must Consent:

- Each living parent of a child born in wedlock.
- The mother of a child born out of wedlock and the father whose paternity is established.

- Any person or agency having custody.
- The court having jurisdiction.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

If a parent has:

- Abandoned or failed to contact or support child for 1 year.
- Not established paternity or whose child was conceived as a result of rape or incest.
- Had parental rights terminated.
- Been found incompetent.
- Been convicted of murder or manslaughter and the victim was the child's other parent.
- Been convicted of murder, manslaughter, rape, incest, neglect or battery and the victim was the child's sibling.

When Relinquishment Can Be Signed:

Consent may be executed any time after the child's birth.

How Relinquishment Must Be Signed:

Consent may be executed in the presence of the court, a notary public or other authorized agent, or an authorized agent of the Division or child placing agency.

Time for Revocation:

A consent may not be withdrawn before the entry of the adoption decree unless the court finds that the person seeking the withdrawal is acting in the child's best interest.

A consent may not be withdrawn after the entry of the adoption decree.

Iowa

Who Must Consent:

- Any guardian.
- The spouse of a petitioner who is a stepparent.
- The spouse of a petitioner who is separately petitioning to adopt an adult person.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- A person refuses to consent or cannot be located to consent.
- The parent has signed a release of custody or petition to terminate rights.
- Parent has abandoned or failed to support the child.
- Parent is a chronic substance abuser.
- Parent has committed more than one act of domestic abuse.
- Parent has abducted, removed or improperly retained the child.

When Relinquishment Can Be Signed:

Parental release of custody may not be executed until at least 72 hours after child's birth.

How Relinquishment Must Be Signed:

- Consent by a minor must be executed in court. Consent by any other person may be executed in court or before a notary public.
- Consent shall contain written acknowledgment that 3 hours of counseling were offered to parents after the birth.
- Release shall be in writing, have 2 witnesses, shall name the person or agency accepting the release, state the purpose, and be followed by a petition for termination of parental rights within a reasonable period of time.

Time for Revocation:

A request to revoke may be made prior to termination of parental rights.

If the request is made within 96 hours of executing release, the court shall allow it.

If made after 96 hours, the court must find by clear and convincing evidence good cause exists for revocation, such as fraud, coercion, or misrepresentation of fact.

Kansas

Who Must Consent:

In an independent adoption:

- By the living parents, unless found unnecessary.
- A legal guardian.
- The court having jurisdiction.

In agency adoptions:

An authorized representative of the agency may consent.

Consent of Adoptee:

A child 14 years or older, if of sound intellect, must consent to the adoption.

When Parental Consent is Not Needed:

The father:

- Has neglected or abandoned the child.
- Has failed to contact or support the child.
- Is unfit or incapable of consent.
- Failed to support mother during pregnancy.
- Abandoned the mother.
- Raped the mother.
- Failed to assume parental duties for 2 years.
- As far as is applicable, the provisions also apply to the mother.

When Relinquishment Can Be Signed:

- Mother may not give consent until 12 hours after child's birth and must be executed not more than 6 months before an adoption petition is filed.
- Presumably, a father can consent at any time.

How Relinquishment Must Be Signed:

-Consent shall be in writing and acknowledged before a judge or authorized officer.

-A minor parent may consent, but must be provided with counsel prior to execution, and counsel must be present when consent is signed.

Time for Revocation:

A consent is final when executed unless consenting party, prior to final decree of adoption, proves by clear and convincing evidence that consent was not freely and clearly given

Kentucky

Who Must Consent:

-The mother.

-The father if he is married to the mother or has otherwise established paternity.

-A guardian ad litem must be appointed for a minor parent.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

A Parent:

-Has abandoned or failed to support the child.

-Has inflicted serious injury or allowed the child to be sexually abused.

-Has had parental rights to another child terminated.

-Has been adjudicated as mentally disabled.

When Relinquishment Can Be Signed:

Consent is invalid if given prior to 72 hours after the child's birth.

How Relinquishment Must Be Signed:

A petition for voluntary termination of parental rights shall be filed in the circuit court of the county where petitioner resides.

Time for Revocation:

Consent shall become final 20 days after placement approval or 20 days after execution if placement approved prior to signing of the consent.

Louisiana

Who Must Consent:

- The mother
- The father or alleged father if he has established parental right.
- The biological father whose paternity has been established.
- The custodial agency who has placed the child for adoption.

Consent of Adoptee:

Not addressed in statutes reviewed.

When Parental Consent is Not Needed:

A parent with custody is married to the petitioner and the other parent has failed to support, visit or communicate with the child without just cause for at least 6 months.

When Relinquishment Can Be Signed:

- Act of surrender by mother shall not be executed prior to 5th day after child's birth.
- A father may execute act of surrender prior to or any time after child's birth.

How Relinquishment Must Be Signed:

- Consent must be executed before a notary and 2 witnesses.
- Prior to this, parent must undergo at least two counseling sessions, consult with an attorney, and be informed about Voluntary Registration Law.
- In a private adoption, the parent must be represented by her own attorney at the time of execution of consent.

Time for Revocation:

Consent is irrevocable after the 5th day following child's birth.

The father's consent is irrevocable upon execution.

Maine

Who Must Consent:

- Each living parent, unless consent has been waived.
- The person or agency having legal custody.
- A guardian appointed by the court.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- A parent has abandoned the child.
- Parent fails to assume parental responsibility.
- Parent's rights have been terminated.
- The child is 18 years or older.
- A putative father who failed to respond to notice or waived right of notice.

When Relinquishment Can Be Signed:

- Consent can be executed any time after the child's birth.
- A petition for adoption must be pending before consent is executed.

How Relinquishment Must Be Signed:

- Parents must execute consent before a judge.
- Consent by an agency may be executed before a notary public and filed with the probate court.
- The adoptee, if 14 years or older, must execute consent before a judge.

Time for Revocation:

A consent or release will not be valid until 3 days after it has been executed; it then becomes final and irrevocable.

If the adoption consented to is not finalized within 18 months, a review must be held.

Maryland

Who Must Consent:

- The natural mother and father.
- If parental rights have been terminated, the head of the agency that has been awarded guardianship.

Consent of Adoptee:

A child 10 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- Child has been out of parent's custody for 1 year and has significant attachment to petitioner.
- Parent has failed to contact or support child.
- Parent has been convicted of child abuse or a crime of violence against a child.

When Relinquishment Can Be Signed:

Not addressed in statutes reviewed.

How Relinquishment Must Be Signed:

- Consent must contain express notice of right to revoke.
- A minor parent's consent is valid only when accompanied by an affidavit from counsel stating that consent is given knowingly and willingly.

Time for Revocation:

Consent may be revoked within 30 days.

Individual to be adopted may revoke consent at any time before a decree is entered.

Massachusetts

Who Must Consent:

- The lawful parents, who may be previous adoptive parents.
- A surviving parent.
- The mother only if the child has been born out of wedlock.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- The child is over 18.
- The court determines that waiver is in child's best interest.
- The child has been abandoned or subjected to abuse or neglect.
- The parent has been convicted of murder or manslaughter and the victim was the other parent or a sibling.
- The child has been in foster care for 15 of the latest 22 months.

When Relinquishment Can Be Signed:

Written consent shall be executed no sooner than the 4th day after the birth of the child.

How Relinquishment Must Be Signed:

Consent is executed before a notary public in the presence of 2 competent witnesses.

Time for Revocation:

Consent to adoption, executed according to statutory provision, is final and cannot be revoked.

Sample surrender and consent forms are found in the statute.

Michigan

Who Must Consent:

- Each parent or surviving parent.
- The authorized representative of the child placing agency to whom the child has been released.
- The child's guardian.
- The court or tribal court having permanent custody.
- If the parent of the adoptee is a minor, the minor's parent must also consent.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- Putative father denies paternity or interest in custody.
- Parent fails to provide support.
- Parental rights have been terminated or relinquished.
- Noncustodial parent has failed for 2 years or more to support or communicate with the child.

When Relinquishment Can Be Signed:

- Consent may not be executed until after an investigation and a judge has explained their rights to the parents.
- If putative father fails to file a notice of intent to claim paternity prior to the expected date of confinement or birth, he waives any rights to the child and thereby consents.
- At the mother's request, her consent shall be delayed until the court determines the status of the putative father's request for custody.

How Relinquishment Must Be Signed:

- Release is executed before a judge or referee of the juvenile court.
 - If the release is given by armed services member, an incarcerated person, or agent of a child placing agency, it is executed before a person authorized to administer oaths.
 - Parent must verify that counseling was received and no payment was offered.
- Time for Revocation:

Person who granted consent may petition court for hearing on whether to grant revocation.

A release may not be revoked if the child has been placed for adoption unless the child was placed as provided by statute and a petition has been filed for a rehearing within time required.

Minnesota

Who Must Consent:

- The child's parents or guardian.
- If there is no qualified parent or guardian, consent may be given by a commissioner.
- If the unmarried parent is under age 18, the consent of the minor's parent or guardian is required.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

If parent has:

- Abandoned the child.
- Had parental rights terminated.
- Lost custody through a court proceeding.

When Relinquishment Can Be Signed:

Consent may be executed no sooner than 72 hours after child's birth and no later than 60 days after child's placement in prospective adoptive home.

How Relinquishment Must Be Signed:

- Written consent:
- Must executed before 2 witnesses.
- Contain withdrawal provisions.
- Contain notice that if child is not adopted the parent may be required to support the child.

Time for Revocation:

Consent may be withdrawn for any reason within 10 working days.

After 10 days, it becomes irrevocable unless there is fraud.

Mississippi

Who Must Consent:

- The parents or parent, if only one is living.
- If both parents are dead, then any 2 adult kin provided at least one is in possession of the child.
- Guardian ad litem of an abandoned child.
- Any person having custody of the child.
- An agent of the county department.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

Parent:

- Has abandoned or abused the child.
- Suffers a medical or emotional illness or chemical dependency.
- Has had parental rights terminated.

-Father of child born out of wedlock unless he has shown within 30 days of the child's birth and commitment to parenthood.

When Relinquishment Can Be Signed:

Consent is executed no sooner than 72 hours after the child's birth.

How Relinquishment Must Be Signed:

Consent is executed before and filed by an authorized officer of any institution engaged in placing children for adoption.

Time for Revocation:

Case law suggests that consent is irrevocable absent fraud, duress or undue influence shown by clear and convincing evidence and considering the best interests of the child.

Missouri

Who Must Consent:

- The mother.
- Any man who is presumed to be the father, has acted to establish paternity or has filed with the putative father registry.
- The child's current adoptive parents or other legally recognized parent.

Consent of Adoptee:

A child 14 years or older must consent to the adoption, except where the court finds that the child lacks sufficient mental capacity.

When Parental Consent is Not Needed:

A parent:

- Whose rights have been terminated.
- Whose identity is unknown.
- Who has been found incompetent.
- Who has abandoned or failed to support or care for the child.

When Relinquishment Can Be Signed:

May be executed before a judge or notary public any time after child is 48 hours old, before or after petition for adoption is filed.

How Relinquishment Must Be Signed:

Consent must be acknowledged before a notary public, or have consenting person's signature witnessed by 2 adults.

Time for Revocation:

Consent may be withdrawn at any time until reviewed and accepted by the judge.

Case law states that consent is irrevocable absent fraud, duress or coercion.

Montana

Who Must Consent:

- The birth mother.
- The husband of the mother if he is the presumed father.
- Any other person whose parental rights have been established.
- The agency that has custody of the child.
- The legal guardian.

Consent of Adoptee:

A child 12 years or older must consent, either in writing or in court, unless he lacks the mental capacity to consent.

When Parental Consent is Not Needed:

An individual:

- Whose parental rights have been terminated for unfitness or has waived rights.
- Who has been declared incompetent.
- Who has not been married to the mother and denies paternity.
- Who is the personal representative of a deceased parent's estate.

When Relinquishment Can Be Signed:

- A parent may consent not less than 72 hours after the child's birth and has first received counseling.
- A guardian may consent any time after being authorized by the court.

How Relinquishment Must Be Signed:

- Consents must be acknowledged before an authorized officer of the Department, an agency, or the court.
- Consent by a minor parent not valid unless minor has been advised by an attorney.

Time for Revocation:

The parent who has relinquished and the prospective adoptive parent may mutually agree to revocation prior to the issuance of an order terminating parental rights.

A relinquishment cannot be revoked once that order has been issued.

Nebraska

Who Must Consent:

- Any court having jurisdiction over the custody of the child.
- Both parents or the surviving parent of a child born in wedlock.
- The mother of a child born out of wedlock and the father provided he has filed with the biological father registry.
- The Department or placing agency.
- The guardian or guardian ad litem.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

If a parent:

- Has relinquished the child.
- Has abandoned the child for at least 6 months.
- Whose parental rights have been terminated.
- Is incapable of giving consent.

When Relinquishment Can Be Signed:

Not addressed in statutes reviewed. By implication, any time after the birth of the child.

How Relinquishment Must Be Signed:

Must be executed before an authorized officer or, in private placements, before at least 1 witness.

Time for Revocation:

Case law suggests that relinquishment is irrevocable unless there is a finding that revocation is in the child's best interest or upon finding of fraud, duress, or undue influence.

Nevada

Who Must Consent:

- Both parents if both are living.
- One parent if the other is dead.
- The guardian of the child appointed by the court.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- The parental rights have been terminated.
- A parent has been insane for 2 years and there is proof that the insanity is incurable.

When Relinquishment Can Be Signed:

- Consents executed by the mother before the child's birth or within 72 hours after the birth are invalid.
- The father may consent before the birth if he is not married to the mother.

How Relinquishment Must Be Signed:

- Consent must be executed before 2 witnesses, identify child and adopting parents, and a copy delivered within 48 hours to the Welfare Dept.
- A child must not be placed in an adoptive home until a consent is executed by the mother.

Time for Revocation:

Consent cannot be revoked except as provided by statute and only if it is in the child's best interest.

New Hampshire

Who Must Consent:

- The mother.
- The legal and/or natural father provided that if he is under 18 years, the court may require the consent of his parents or guardian.
- The legal guardian.
- The department or agency having custody of the child.
- The court may require the consent of parent or guardian of unwed mother under 18.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- An unwed father has failed to establish paternity.
- A parent's rights have been terminated.

When Relinquishment Can Be Signed:

No consent is valid until at least 72 hours after the child's birth.

How Relinquishment Must Be Signed:

- Relinquishments shall be executed through an agency.
- Consent must be in writing and executed in court or before an authorized person.
- In agency placements, consent can be executed before an authorized representative.
- At the time of relinquishment, the parent shall file with the court an affidavit stating that the parent has been informed of available counseling services.

Time for Revocation:

Can not be withdrawn before entry of interlocutory decree unless obtained by fraud or duress or the court finds that it would be in the child's best interest.

Consent is irrevocable after final decree.

New Jersey

Who Must Consent:

- The parent or guardian of the child.
- Any agency which has obtained the authority to place the child for adoption.

Consent of Adoptee:

A child 10 years or older is required to appear at final adoption hearing and the child's wishes be given consideration, provided the child has the capacity to form an intelligent preference.

When Parental Consent is Not Needed:

The parent:

- Has executed a valid surrender.
- Whose parental rights have been terminated.
- Whose child has been made available for adoption in a foreign country.
- Has failed to contact or support the child.
- Has not acknowledged paternity.

-A parent who does not file written objections to an adoption within 20 days after notice is given.

When Relinquishment Can Be Signed:

- Consent may be executed only after 72 hours after child's birth.
- An alleged father may execute a disclaimer of parental interest at any time, including before the child's birth.

How Relinquishment Must Be Signed:

- Surrender to an approved agency shall be in writing before an authorized person.
- A hearing may be held to determine that the surrender was voluntary and proper.

Time for Revocation:

If executed according to provisions, surrender to an agency is valid, binding, and irrevocable and constitutes a termination of parental rights.

At the discretion of the agency, it may be set aside when based on fraud, duress or misrepresentation.

New Mexico

Who Must Consent:

- The mother.
- The presumed or acknowledged father.
- The department or agency to whom the child has been relinquished.
- The guardian of the parent when the guardian has right of consent.
- For an Indian child, consent must be obtained from an Indian custodian.

Consent of Adoptee:

A child 10 years or older must consent, unless a court finds the child lacks the mental capacity to make a judgment.

When Parental Consent is Not Needed:

- A parent's rights have been terminated or have been relinquished to an adoption agency.
- A biological father of a child conceived by rape or incest.
- Any person who fails to respond to notice.
- Any putative father who fails to register.
- The parent has left the child without identification or has failed to contact or support the child.

When Relinquishment Can Be Signed:

No consent is valid for at least 48 hours after the child's birth.

How Relinquishment Must Be Signed:

- Consent shall be executed before a judge or an individual appointed to take consents or by an agency licensed by the state.
- If not executed before a judge, the consenting parent must be represented by independent counsel and a guardian ad litem must be appointed for any adoptee whose consent is required.

Time for Revocation:

Consents may not be withdrawn prior to the entry of the final judgment unless the consent was obtained by fraud.

After the final decree, consent is irrevocable.

New York

Who Must Consent:

- Both parents if child is born or conceived in wedlock.
- For a child born out of wedlock, the mother and father if he has shown an interest in the child.
- Any person or agency having custody.
- Agency's consent is required if the agency has custody and guardianship of the child, or if both parents are deceased or one parent is deceased and the other parent is not entitled to notice.

Consent of Adoptee:

A child 14 years or older must consent to the adoption unless the court dispenses with consent.

When Parental Consent is Not Needed:

The parent:

- Has failed to visit or contact the child for 6 months.
- Has surrendered the child to an agency for adoption.
- Shows intent to forego rights.
- Whose child has a court appointed guardian.
- Is unable to care for the child due to mental illness.

When Relinquishment Can Be Signed:

Not addressed in statutes reviewed. Case law implies that consent may be executed any time after the child's birth.

How Relinquishment Must Be Signed:

- For private adoptions, the statute distinguishes between consents executed in court and extra-judicial consents, and details contents required for consents to be valid.
- For agency adoptions, statute details requirements for a valid written surrender.

Time for Revocation:

In a private adoption, consent given in court is irrevocable.

An extra-judicial (given outside the court) consent may be revoked within 45 days.

Parental consents to private adoptions and surrenders in agency adoptions may be challenged if obtained by fraud, duress or coercion.

North Carolina

Who Must Consent:

- The mother.
- A man who was married to the mother or has legitimated the child.
- A guardian.
- The agency that placed the child for adoption.
- The guardian ad litem of an incompetent parent.

Consent of Adoptee:

A child 12 years or older must consent to the adoption unless the court finds that it is not in the child's best interest to require consent.

When Parental Consent is Not Needed:

- The parent fails to respond to notice.
- A putative father cannot establish parental rights.
- Rights have been terminated or relinquished.
- A man denies paternity.

When Relinquishment Can Be Signed:

- A man may consent any time before or after child's birth.
- A mother may only consent after the child's birth.
- An agency with custody shall execute its consent no later than 30 days after being served notice of a proceeding for adoption.

How Relinquishment Must Be Signed:

Must be signed and executed under oath before an authorized individual, stating that consent was voluntary and stating the legal consequences of the consent.

Time for Revocation:

Is generally final and irrevocable.

Consent to an infant in utero or younger than 3 months may be revoked within 21 days.

Consent to the adoption of any other minor may be revoked within 7 days.

May be revoked if there is fraud, duress or mutual agreement.

If a parent revokes a consent, and later consents again, the 2nd consent is irrevocable.

North Dakota

Who Must Consent:

- The mother, whether by birth or adoption.
- The father, whether by adoption or other means of legitimization.
- The presumed natural father.
- Any person lawfully entitled to custody.
- The court having jurisdiction to determine custody.

Consent of Adoptee:

A child 10 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- The child has been abandoned.
- The parent fails to communicate with or support the child for 1 year.
- Parental rights have been terminated or relinquished.
- Adulthood of adoptee.
- Parental incompetence.

When Relinquishment Can Be Signed:

Consent may be executed any time after the child's birth.

How Relinquishment Must Be Signed:

- If by an agency, consent must be executed by executive head of agency or other representative before a person authorized to take acknowledgments.
- If by an individual, consent must be executed before a court.

Time for Revocation:

Consent can be withdrawn before the final order, but only if the court finds that it is in the child's best interest.

Ohio

Who Must Consent:

- The mother.
- The father if he was married to the mother at the time of conception, is the adoptive father, or has established paternity.
- The putative father.
- Any agency or person having permanent custody.
- The court having jurisdiction to determine custody.

Consent of Adoptee:

A child 12 years or older must consent, unless it is in the child's best interest to waive the requirement.

When Parental Consent is Not Needed:

- The parent fails to contact or provide for the child for 1 year.
- The putative father is not the actual father.
- The parent relinquishes or has parental rights terminated.
- A guardian or custodian withholds consent unreasonably.
- A parent or guardian is in a foreign country and child is released for adoption pursuant to laws in that country.

When Relinquishment Can Be Signed:

Consent cannot be executed until at least 72 hours after the child's birth.

How Relinquishment Must Be Signed:

- By the adoptee in the presence of the court.
- By an agency, before an authorized person.
- By another person or parent except the minor, before the court or an authorized person.
- By court order.

Time for Revocation:

A consent is irrevocable except if consent is withdrawn prior to the:

- interlocutory order
- entry of the final decree when no other order has been entered after a hearing that finds withdrawal is in the best interest of the adoptee.

Oklahoma

Who Must Consent:

- Both parents.
- One parent if the other is dead, has had rights terminated, or whose consent is not required.
- A legal guardian.
- Head of a child placing agency to the whom the child has been relinquished.
- Any person having legal custody.
- The parents or guardian of a minor parent under age 16 must consent.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- Parental rights have been terminated.
- For 12 months, the parent has failed to support the child.
- A parent has been convicted of physical or sexual abuse, or is incarcerated.
- A putative father fails to acknowledge paternity.
- A parent has a mental illness or deficiency.

When Relinquishment Can Be Signed:

- Parent may not execute consent until after child's birth.
- A putative father may consent before or after child's birth.
- A permanent relinquishment may be executed any time after child's birth, but must be in writing and include a statement of irrevocability.

How Relinquishment Must Be Signed:

- Parents may relinquish to the Department, an agency, or another person.
- It must be in writing and executed before a judge.
- Consent must state that it executed voluntarily and unequivocally.
- A putative father may make an extra-judicial consent.

Time for Revocation:

Consent is irrevocable, except if it was obtained by fraud or duress, or if court finds that it is in child's best interest and there has been no adoptive placement for 9 months.

An extra-judicial consent is revocable for any reason for 15 days.

Oregon

Who Must Consent:

- The parents, or surviving parent.
- A guardian.
- Next of kin.
- A suitable person appointed by the court as next friend of the child.
- State office or agency to which custody has been surrendered.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

A parent:

- Does not retain custody.
- Is mentally ill or deficient.
- Has been imprisoned more than 3 years.
- Has deserted or neglected the child.
- The mother's husband is found not to be the child's father.

When Relinquishment Can Be Signed:

Not addressed in statutes reviewed.

How Relinquishment Must Be Signed:

-Must be in writing and its validity attested to by the court or an authorized person.

-A parent may execute consent or surrender to a child placing agency for the purpose of placing the child for adoption by that agency.

Time for Revocation:

Consent may not be revoked unless fraud or duress is proved with respect to any material fact surrounding the adoption procedure.

Pennsylvania

Who Must Consent:

-The parents or surviving parent.

-The guardian or custodian.

-The husband or former husband of the natural mother unless there is proof that he is not the natural father.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

-The adoptee is 18 years or older.

-The parent of a newborn fails to maintain contact for 4 months.

-The father of a child conceived through incest or rape.

-Parental rights have been terminated.

-Parent has failed to perform parental duties.

-There is repeated and continued abuse or neglect.

-The parent is the presumptive but not natural father of the child.

-The child is in the custody of an agency because the whereabouts of the parents are unknown.

-The child has been removed from the parent for 6 months.

When Relinquishment Can Be Signed:

-Consent may not be executed until at least 72 hours after the child's birth.

-A putative father may execute a consent at any time after receiving notice of the expected or actual birth of the child.

How Relinquishment Must Be Signed:

-Sections 23 Pa. §§ 2501-2505 deal with voluntary relinquishment to an agency or directly to prospective adopters; provide for court hearings to approve relinquishments or court approval of consents executed out of court.

-There are also procedures for when parents do not petition for relinquishment within 40 days of executing consent, and making counseling available. The contents of out of court consents are detailed.

-Consent shall include the date and place of its execution and names, addresses, and signatures of at least two witnesses and their relationship to the consenter.

Time for Revocation:

Effective May 2004: A parent can revoke consent within 30 days of signing.

Rhode Island

Who Must Consent:

-The parents or surviving parent.

-The guardian or next of kin.

-A suitable person appointed by the court as next friend of the child.

-A minor parent must have the consent of one of the child's grandparents, a guardian or guardian ad litem.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

-Parental rights have been terminated.

-The parent has neglected or abused the child or subjected the child to aggravated circumstances.

-The parent is deemed unfit due to emotional or mental illness; excessive drug or alcohol abuse.

-Parent has voluntarily or involuntarily placed the child in the care of a licensed agency.

When Relinquishment Can Be Signed:

Termination of rights or consent to adoption may not be executed sooner than 15 days after the child's birth.

How Relinquishment Must Be Signed:

Consent must be in writing.

Time for Revocation:

A decree of adoption or consent cannot be challenged except by a petition filed within 180 days and a finding by the court that the decree is not in the child's best interest.

South Carolina

Who Must Consent:

- Parents or surviving parent.
- The father when the parents are not married if the father has maintained substantial contact with the child.
- The legal guardian.
- The child placing agency or legal custodian.

Consent of Adoptee:

A child 14 years or older must consent to the adoption, except where the court finds that the child lacks the mental capacity to consent or that it is not in the child's best interest.

When Parental Consent is Not Needed:

- Parental rights have been terminated pursuant to statute.
- A parent has executed a relinquishment.
- Parent has been judged mentally incapable.

When Relinquishment Can Be Signed:

Consent may be given at any time after the child's birth.

How Relinquishment Must Be Signed:

- Consent must be by a sworn statement, signed in the presence of 2 witnesses, one of whom must be a judge, a disinterested attorney, or authorized person.
- The witness must attest that consent was voluntary and executed without duress or coercion, and contain detailed information and a statement of legal consequences of signing.

Time for Revocation:

Not permitted except where it is in the child's best interest and if it was given involuntarily or under duress or coercion.

The final decree renders the consent irrevocable.

South Dakota

Who Must Consent:

No child may be adopted without the consent of the child's parents.

Consent of Adoptee:

A child 12 years or older must consent to the adoption.

When Parental Consent is Not Needed:

If the parent:

- Is incarcerated for a critical period of time.
- Has abandoned the child.
- Is unfit by reason of habitual use of alcohol or drugs.
- Has been deprived of custody.
- Has neglected or failed to provide for the child.

When Relinquishment Can Be Signed:

No petition to terminate rights or consent to adoption may be filed until 5 days after the child's birth.

How Relinquishment Must Be Signed:

Consent must be in writing; followed by a court appearance to answer questions indicating their voluntary action and understanding of the consequences.

Time for Revocation:

Except in any case involving fraud, any adoption proceeding shall be in all things legalized 2 years after finalization.

Any claims must be initiated within those 2 years.

Tennessee

Who Must Consent:

- A parent under age 18 shall have the capacity to give consent to adoption.
- A guardian ad litem may be appointed.
- The child's parent or guardian.

Consent of Adoptee:

Not addressed in statutes reviewed.

When Parental Consent is Not Needed:

- There is no person qualified to give consent, or

The parent:

- Has abandoned the child.
- Has shown substantial noncompliance with a permanency plan.
- Whose child has been out of the home for 6 months.
- Has committed severe child abuse.
- Has been imprisoned for 2 years for conduct against a child.
- Has failed to support, contact or visit the child.

When Relinquishment Can Be Signed:

- No surrender shall be made prior to the 3rd day after birth
- The count starts on the first full day following birth.
- The court may, for good cause shown, waive the 3 day waiting period.

How Relinquishment Must Be Signed:

- Surrenders shall be made in the presence of a judge, and the court shall advise the person of the right, time and procedure.
- The court may accept notarized statements if someone is unable to surrender in person.

Time for Revocation:

- Person may revoke a surrender within 10 days if such revocation occurs in the presence of a judge.
- After 10 days, a surrender cannot be set aside unless the court finds reasons the adoption should not go forward, as detailed in the statutes.
- A surrender may be revoked at any time prior to the entry of an order of confirmation of parental consent by the court.
- The surrender may be revoked if there is clear and convincing evidence of fraud, misrepresentation, or duress.

Texas

Who Must Consent:

- The managing conservator.
- If a parent of the child is presently the spouse of the petitioner, he must join in the petition for adoption.

Consent of Adoptee:

A child 12 years or older must consent, unless court finds it in the child's best interest to waive consent.

When Parental Consent is Not Needed:

- Parent unable to care for child due to mental illness.
- Has voluntarily terminated parental rights.
- After an abortion where the child survives.

- A person is convicted of a crime resulting in the birth of a child.
- Rights have been terminated on the grounds of abandonment, nonsupport, endangerment, abuse and neglect.

When Relinquishment Can Be Signed:

- The birth mother may consent no sooner than 48 hours after the birth.
- A man may sign an affidavit disclaiming any interest at any time before or after the birth.

How Relinquishment Must Be Signed:

A consent must be signed by the parent, whether or not a minor, witnessed by 2 credible witnesses, and verified by a person authorized to take oaths.

Time for Revocation:

An affidavit of relinquishment that fails to state that it is irrevocable can be revoked for up to 11 days after signing.

On the 11th day, consent becomes irrevocable.

Any time before an order granting an adoption, consent may be revoked by filing a signed revocation.

Utah

Who Must Consent:

- Both parents or surviving parent of child born in wedlock.
- The mother.
- Any biological father who has established paternity.
- The child placing agency to which the child has been relinquished.
- A minor parent has the power to consent.

Consent of Adoptee:

A child 12 years or older must consent to the adoption, unless he does not have the capacity to consent.

When Parental Consent is Not Needed:

- The parent's rights have been terminated by a court.
- The child was conceived as a result of any sexual offense.

When Relinquishment Can Be Signed:

Birth mother may not execute consent until at least 24 hours after child's birth.

How Relinquishment Must Be Signed:

Consent must be signed before a judge or authorized official of a child-placing agency so long as signature is notarized or witnessed by 2 witnesses who are not members of the birth mother's immediate family.

Time for Revocation:

Consent is effective when signed and cannot be revoked.

Case law suggests that consent may be revoked if induced by duress, undue influence, deception or other grounds that would justify release from a contract.

Vermont

Who Must Consent:

- The birth mother.
- The biological father.
- The man married to the mother at the time of conception or who has acknowledged paternity.
- The child's guardian, adoptive or other legally recognized parents.
- The agency that placed the child for adoption.

Consent of Adoptee:

A child 14 years or older must consent, unless the court dispenses with the need.

When Parental Consent is Not Needed:

- A person has relinquished parental rights to an agency, or whose rights have been terminated or determined not to exist.

- The man denies paternity or fails to appear at proceedings.
- Consent of a guardian or agency not required if court finds it is being withheld contrary to child's best interest.

When Relinquishment Can Be Signed:

- Consent by a parent may not be executed earlier than 36 hours after child's birth.
- Consent by a guardian can be made any time after being authorized by the court.
- Consent by an agency may be made any time before or during the hearing on adoption.

How Relinquishment Must Be Signed:

- A consent executed by a parent or guardian shall be signed in the presence of the probate judge or the court's authorized agent.
- A minor must consent in the presence of a judge.

Time for Revocation:

Consent is irrevocable after 21 days.

Consent is revoked if the parent notifies the court within 21 days; or the parent and prospective adoptive parent agree.

Consent may also be set aside if obtained by fraud or duress, or if a condition permitting revocation has occurred.

Virginia

Who Must Consent:

- The mother.
- The husband of the mother.
- The birth father if the parents are unwed, unless the birth father cannot be determined or fails to respond to notice.
- The agency or department having custody.
- A minor parent shall have power to consent.

Consent of Adoptee:

A child 14 years or older must consent to the adoption unless the court finds the child's best interest would not be served.

When Parental Consent is Not Needed:

- When the father has been convicted of rape the result of which the child is conceived.
 - If parental rights have been terminated.
 - If the putative father cannot be identified, or if known, fails to respond to notice.
 - Parents fail to appear at adoption hearing.
 - When consent is withheld contrary to the best interests of the child.
- When Relinquishment Can Be Signed:
- Consent is not valid until the child is 10 days old.

How Relinquishment Must Be Signed:

- Consent in direct placement must be executed in court in presence of adoptive parents.
- The court shall first determine that parent has been counseled on alternatives to adoption and all procedures required by law have been completed.
- Entrustments and consents in agency placements may be executed before an authorized officer.
- Placement by birth parents with a relative of a degree specified per statute may be executed before an authorized officer.

Time for Revocation:

An entrustment agreement can be revoked by either birth parent until the child is 25 days old and 15 days have elapsed.

Consent can be revoked by either parent for any reason for 15 days.

After that period, but before the final adoption order, consent may be revoked only upon proof of fraud or duress or mutual written consent of birth and adoptive parents.

Washington

Who Must Consent:

- The parents and any alleged father.
- The agency or department to which the child has been relinquished.
- The legal guardian.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- A parent's rights have been terminated in the child's best interest and due to failure to perform parental duties.
- For an Indian child, a parent's rights may be terminated only pursuant to standards set forth in 25 U.S.C. § 1912(f).

When Relinquishment Can Be Signed:

- Parents' written consent and petition to relinquish may be filed before birth, but the hearing may not be held sooner than 48 hours after the birth.
- If the child is an Indian child, the petition and consent shall not be signed until at least 10 days after birth.

How Relinquishment Must Be Signed:

- Written consents may be executed out of court and mailed or delivered to the clerk of the court but are not valid until 48 hours after signing or the birth of the child and approved by a judge.
- If the child is an Indian child, no consent shall be valid unless signed at least 10 days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. § 1913(a).

Time for Revocation:

Consent is revocable until court approves it.

Thereafter, consent is irrevocable, except that for 1 year, consent may be revoked for fraud, duress, or lack of mental competency.

For an Indian child, consent can be withdrawn for any reason before entry of final decree and for fraud or duress within 2 years.

West Virginia

Who Must Consent:

- The parents of a marital child.
- The mother and determined father of a nonmarital child.
- The legal guardian or other person having legal custody.
- A suitable person appointed by the court as next friend to the child.
- An agency having permanent legal custody of the child.

Consent of Adoptee:

A child 12 years or older must consent in the presence of a judge, but consent may be waived for "extraordinary cause" by the court.

When Parental Consent is Not Needed:

- Parental rights have been terminated.
- A child was abandoned or permanently relinquished.
- The parent is under disability or incurably insane.

When Relinquishment Can Be Signed:

Consent may not be executed until at least 72 hours after the child's birth.

How Relinquishment Must Be Signed:

- Consent must be signed and executed in the presence of a judge, a notary, or person designated by the court to take consent.
- If the parent is a minor, consent shall be reviewed and approved by the court.

Time for Revocation:

Consent may provide for conditional revocation if other required consents are not executed, or in direct placements, a petition for adoption is denied or withdrawn.

If, prior to entry of adoption order, the birth parent and adopting parent mutually agree; or that consent was obtained by fraud or duress.

The court will award custody based on child's best interest.

Wisconsin

Who Must Consent:

- A parent may consent to a voluntary termination of parental rights.
- A petition may also be filed by an agency or other authorized person.

Consent of Adoptee:

Not addressed in statutes reviewed, but see § 48.837: any child age 12 or older is required to attend the hearing pertaining to his adoptive placement.

When Parental Consent is Not Needed:

- Parental rights have been terminated due to failure of parents to assume responsibility.
- There has been abandonment of the child.
- There is continuing parental disability.
- There has been child abuse.
- Causing child to be conceived as a result of incest or sexual assault.
- Homicide of a parent.

When Relinquishment Can Be Signed:

A hearing is held within 30 days of the filing of a petition for voluntary termination of parental rights, but not before the birth of the child.

How Relinquishment Must Be Signed:

- Consent is given in court after the judge explains the effect of termination of rights and is satisfied that consent is informed and voluntary.
- Personal appearance may be waived and written consents accepted if it is impossible or difficult for parent to appear.

Time for Revocation:

Generally consents are irrevocable, but a parent who has consented to termination may within one year petition for relief on grounds given in § 806.07(1), i.e., mistake, newly-discovered evidence, fraud, misrepresentation, or misconduct; see statute for detailed exceptions to the one year provision.

An adoptive parent who wishes to terminate parental rights with respect to his or her adopted child must petition to terminate parental rights under § 48.42 or appeal the order granting adoption.

Wyoming

Who Must Consent:

- Both parents, if living.
- Mother and putative father, if known.
- Legal guardian.
- The head of the agency to which the child has been relinquished.
- Legal custodian.
- The guardian of any parent adjudged mentally incompetent.

Consent of Adoptee:

A child 14 years or older must consent to the adoption.

When Parental Consent is Not Needed:

- When parent fails to respond to notice.
- Parental rights have been terminated.
- Parent has abandoned the child or been adjudged guilty of child abuse or neglect.
- Child was conceived as a result of rape or incest for which the father was convicted.
- Parent fails to meet support obligation.
- A putative father fails to acknowledge paternity.

When Relinquishment Can Be Signed:

- Consent shall be executed any time after the child's birth.
- Written relinquishment of custody and written consent are required; both may be included in the same document.

How Relinquishment Must Be Signed:

- Consent may be acknowledged by an authorized person or representative of the department or the agency to whom custody is being relinquished.
- It may also be approved by the court.

Time for Revocation:
Consent irrevocable unless obtained by fraud or duress.

If the court should deny the adoption due to claim of putative father, the court may allow mother to withdraw consent.



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