



SPONSOR: Sen. Gay & Sen. Townsend & Rep. Longhurst &
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Sens. Ennis, Sokola; Reps. Baumbach, Chukwuocha

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 141

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO TERMINATION AND TRANSFER OF PARENTAL RIGHTS IN ADOPTION PROCEEDINGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1101, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1101. Definitions.

As used in this chapter:

~~(1) "Abandoned" shall be interpreted as referring to a basis for termination of parental rights as described in § 1103(a)(2) of this title.~~

(1) "Alleged father" means as defined in § 8-102 of this title.

~~(2) "Authorized agency" means any agency duly approved, certified, recognized or licensed by the proper authority of any other state in which that agency is located to place children for adoption.~~

~~(3) (2) "Child" means any male or female who has not attained his or her eighteenth birthday as defined in § 302 of Title 1.~~

(3) "Conviction" means as defined in § 222 of Title 11.

~~(4) "Court" shall mean~~ means the Family Court of the State of Delaware.

(5) "Delinquent child" means as defined in § 901 of Title 10.

(6) "Dependency" or "dependent child" means as defined in § 901 of Title 10.

~~(5) (7) "Department" or "DSCYF"~~ means the Department of Services for Children, Youth and Their Families of this State.

~~(6) (8) "Father" means the biological or adoptive male parent of the child~~ an individual who has established a father-child relationship under § 8-201(b) of this title.

(9) "Individual" means a human being.

~~(7) (10) "Infant" means any a child who is less than 6 months of age old.~~

~~(8) (11) "Licensed agency" means any an agency granted a license by to which the Delaware Department of Education has granted a license~~ to place children for adoption.

(9) ~~“Mentally incompetent” shall be interpreted as referring to a parent who is unable to discharge parental responsibilities by reason of mental disorder or mental incapacity.~~

(12) “Mother” means an individual who has established a mother-child relationship under § 8-201(a) of this title.

(13) “Neglect” or “neglected child” means as defined in § 901 of Title 10.

(14) “Parent” means as defined in § 8-102 of this title.

(15) ~~“(15) “Parental responsibilities” means the care, support and control~~ care or support of the a child in a manner that does both of the following:

a. ~~provides~~ Provides for the child’s necessary physical needs, including adequate food, ~~clothing and shelter, clothing, and shelter.~~

b. ~~and that also provides for the mental~~ Advances the child’s education and physical, mental, and emotional health and development of such child.

(16) “Party” means a party in a termination of parental rights proceeding under this chapter.

(17) “Petitioner” means a petitioner in a termination of parental rights proceeding under this chapter.

~~(18) “Presumed father” means any man who is assumed to be the father of a child in accordance with Chapter 8 of this title~~ as defined in § 8-102 of this title.

(19) “Relative” means as defined in § 901 of Title 10.

(20) “Respondent” means a respondent in a termination of parental rights proceeding under this chapter.

Section 2. Amend § 1102, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1102. Jurisdiction and venue.

(a) The Family Court ~~shall have~~ has exclusive jurisdiction of proceedings under this chapter to terminate parental rights.

(b) A petition for termination of parental rights may be filed in the Family Court of any of the following counties:

(1) The county in which ~~at least 1 parent resides;~~ a parent resides.

(2) The county in which the organization having legal or physical care, ~~custody~~ custody, or control of the child is ~~located;~~ located.

(3) The county in which the child is ~~located~~ resides.

(c) ~~Whenever the Family Court shall assume~~ If the Court assumes jurisdiction for the purposes of under this chapter, it ~~shall be~~ is deemed to have retained jurisdiction for the purpose of proceeding under Chapter 9 of this title relating to adoption.

Section 3. Amend § 1103, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1103. Grounds for termination of parental rights.

(a) The procedure for termination of parental rights for the purpose of adoption or, if a suitable adoption plan cannot be effected, for the purpose of providing for the care of ~~the a~~ child by ~~some other~~ another plan which may or may not contemplate the continued possibility of eventual adoption, may be initiated ~~whenever~~ when it appears to be in the child's best interest and ~~that~~ 1 or more of the following grounds exist:

(1) Consent. ~~The parent or parents of a child, or the person or persons~~ A parent of the child, or a person or organization holding parental rights over ~~such child,~~ the child desires to relinquish ~~such~~ parental rights for the purpose of ~~adoption;~~ adoption, and the Court, in its discretion, accepts the consent or the parent has satisfied the requirements under § 907A of Title 16.

~~(2) The child has been abandoned.~~

~~a. The Court may order a termination of parental rights based upon abandonment if the Court finds that the following occurred and that the respondent intended to abandon the child:~~

~~1. In the case of a minor who has not attained 6 months of age at the time a petition for termination of parental rights has been filed, and for whom the respondent has failed to:~~

~~A. Pay reasonable prenatal, natal and postnatal expenses in accordance with the respondent's financial means;~~

~~B. Visit regularly with the minor; and~~

~~C. Manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent;~~

~~2. In the case of a minor who has attained 6 months of age at the time a petition for termination of parental rights is filed, the respondent, for a period of at least 6 consecutive months in the year preceding the filing of the petition, has failed to:~~

~~A. Communicate or visit regularly with the minor; and~~

~~B. Manifest an ability and willingness to assume legal and physical custody of the minor, if, during this time, the minor was not in the physical custody of the other parent; or~~

~~3. In the case of a minor who has not attained 6 years of age at the time a petition for termination of parental rights has been filed, and for whom the respondent has manifested the unwillingness to exercise parental rights and responsibilities, as evidenced by the respondent's placing the minor in circumstances which leave the minor in substantial risk of injury or death.~~

b. In cases in which no finding of intent to abandon has been made, the Court may order a termination of parental rights based upon abandonment if the Court finds that the respondent, for a period of at least 12 consecutive months in the 18 months preceding the filing of the petition, has failed to:

1. Communicate or visit regularly with the minor;
2. File or pursue a pending petition to establish paternity or to establish a right to have contact or visitation with the minor; and

3. Manifest an ability and willingness to assume legal and physical custody of the minor, if during this time, the minor was not in the physical custody of the parent;

and if the Court finds that one of the following grounds exists:

1. If the minor is not in the legal and physical custody of the other parent, the respondent is not able or willing promptly to assume legal and physical custody of the minor, and to pay for the minor's support, in accordance with the respondent's financial means;

2. If the minor is in the legal and physical custody of the other parent and a stepparent, and the stepparent is the prospective adoptive parent, the respondent is not able or willing promptly to establish and maintain contact with the minor and to pay for the minor's support, in accordance with the respondent's financial means;

3. Placing the minor in the respondent's legal and physical custody would pose a risk of substantial harm to the physical or psychological well-being of the minor because the circumstances of the minor's conception, the respondent's behavior during the mother's pregnancy or since the minor's birth, or the respondent's behavior with respect to other minors, indicates that the respondent is unfit to maintain a relationship of parent and child with the minor; or

4. Failure to terminate would be detrimental to the minor. In determining whether a failure to termination would be detrimental to the minor, the Court shall consider any relevant factor, including the respondent's efforts to obtain or maintain legal and physical custody of the minor, the role of other persons in thwarting the respondent's efforts to assert parental rights, the respondent's ability to care for the minor, the age of the minor, the quality of any previous relationship between the respondent and the minor and between the respondent and any other minor children, the duration and suitability of the minor's present custodial environment and the effect of a change of physical custody on the minor.

c. The respondent's act of abandonment cannot be cured by subsequent conduct.

d. Abandonment of a baby as provided in § 907A of Title 16 shall be final 30 days after such abandonment, and such abandonment shall be:

117 1. ~~The surrendering person's irrevocable consent to the termination of all parental rights, if any, of~~
118 ~~such person on the ground of abandonment; and~~

119 2. ~~The surrendering person's irrevocable waiver of any right to notice of or opportunity to participate~~
120 ~~in any termination of parental rights proceeding involving such child,~~

121 ~~unless such surrendering person has manifested an intent to exercise parental rights and responsibilities~~
122 ~~within 30 days of such abandonment.~~

123 (2) Intentional abandonment. The Court finds that the respondent abandoned the child and the abandonment
124 was intentional. The respondent's subsequent conduct does not cure the abandonment. Intentional abandonment is
125 evidenced by at least 1 of the following:

126 a. When the petition for termination of parental rights is filed, the child is under 6 months old and the
127 respondent has failed to do all of the following:

128 1. Pay reasonable prenatal, natal, and postnatal expenses for the child.

129 2. Visit regularly with the child or file a petition for visitation with the Court.

130 3. Manifest an ability and willingness to assume legal and physical custody of the child, if the child
131 was not in the physical custody of the other parent during this time.

132 b. When the petition for termination of parental rights is filed, the child is at least 6 months old and, for at
133 least 6 consecutive months of the 12 months preceding the filing of the petition, the respondent failed to do all of
134 the following:

135 1. Communicate or visit regularly with the child.

136 2. Manifest an ability and willingness to assume legal and physical custody of the child, if the child
137 was not in the physical custody of the other parent during this time.

138 c. When the petition for termination of parental rights is filed, the child is under 6 years old and the
139 respondent has manifested unwillingness to exercise parental rights and responsibilities over the child, as
140 evidenced by the respondent having placed the child in circumstances in which the child was at substantial risk of
141 injury or death.

142 (3) Unintentional abandonment. The Court finds that the respondent abandoned the child and the
143 abandonment was unintentional. The respondent's subsequent conduct does not cure the abandonment. Unintentional
144 abandonment is evidenced by both of the following:

145 a. For at least 12 consecutive months of the 18 months preceding the filing of the petition, the respondent
146 has failed to do all of the following:

147 1. Communicate or visit regularly with the child.

148 2. File or pursue a pending petition to establish paternity or to establish a right to have contact or
149 visitation with the child.

150 3. Manifest an ability and willingness to assume legal and physical custody of the child, if the child
151 was not in the physical custody of the other parent during this time.

152 b. One or more of the following grounds exists:

153 1. The child is not in the other parent's legal and physical custody and the respondent is not able or
154 willing to promptly assume legal and physical custody of the child and pay reasonable support for the child.

155 2. The child is in the legal and physical custody of the other parent and a stepparent, and all of the
156 following apply:

157 A. The stepparent is the prospective adoptive parent.

158 B. The respondent is not able or willing to promptly establish and maintain contact with the
159 child and pay reasonable support for the child.

160 3. Placing the child in the respondent's legal and physical custody would pose a risk of substantial
161 harm to the child's physical or psychological well-being because the respondent is unfit to maintain a
162 relationship of parent and child with the child, as indicated by at least 1 of the following:

163 A. The circumstances of the child's conception.

164 B. The respondent's behavior during the mother's pregnancy or since the child's birth.

165 C. The respondent's behavior with respect to another child.

166 4. Failure to terminate the respondent's parental rights would be detrimental to the child. In
167 determining whether this ground exists, the Court shall consider all relevant factors, including all of the
168 following:

169 A. The respondent's efforts to obtain or maintain legal and physical custody of the child.

170 B. The role of another person in thwarting the respondent's efforts to assert parental rights.

171 C. The respondent's ability to care for the child.

172 D. The child's age.

173 E. The quality of a previous relationship between the respondent and child, and between the
174 respondent and another child.

175 F. The duration and suitability of the child's current custodial environment.

176 G. The effect on the child of a change of physical custody.

177 ~~(3) The parent or parents of the child or any person or persons holding parental rights over such child are~~
178 ~~found by the Court to be mentally incompetent and, from evidence of 2 qualified psychiatrists selected by the Court,~~

found to be unable to discharge parental responsibilities in the foreseeable future. The Court shall appoint a licensed attorney as guardian ad litem to represent the alleged incompetent in the proceeding; or

(4) Conviction or adjudication of delinquency. The respondent has been found by a court of competent jurisdiction to have had a conviction or has been adjudicated as a delinquent child relating to any of the following offenses or substantially similar offenses of another jurisdiction:

a. Committed a felony level offense against the person, as described within subchapter II of Chapter 5 of Title 11, in which the victim was a child; or A felony level offense against the person under Subchapter II of Chapter 5 of Title 11, in which the victim is a child.

b. Aided or abetted, attempted, conspired or solicited to commit an offense set forth in paragraph (a)(4)a. of this section; or Aiding, abetting, attempting, conspiring, or soliciting to commit a felony level offense against the person under Subchapter II of Chapter 5 of Title 11, in which the victim is a child.

c. Committed or attempted to commit the offense of dealing in children, as set forth in § 1100A of Title 11; or Dealing in children or attempting to deal in children, under § 1100A of Title 11.

d. Committed the felony level offense of endangering the welfare of a child as set forth in § 1102 of Title 11; Felony level endangering the welfare of a child, under § 1102 of Title 11.

e. Murder or manslaughter of the other parent of the child who is the subject of the petition.

f. Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of the other parent of the child who is the subject of the petition.

(5) ~~The parent or parents of the child, or any person or persons holding parental rights over the child, are not able, or have failed, to plan adequately for the child's physical needs or mental and emotional health and development, and 1 or more of the following conditions are met:~~

a. ~~In the case of a child in the care of the Department or a licensed agency:~~

1. ~~The child has been in the care of the Department or licensed agency for a period of 1 year, or for a period of 6 months in the case of a child who comes into care as an infant, or there is a history of previous placement or placements of this child; or~~

2. ~~There is a history of neglect, abuse or lack of care of the child or other children by the respondent;~~
or

3. ~~The respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration, except that the Court may consider postconviction conduct of the respondent; or~~

4. ~~The respondent is not able or willing to assume promptly legal and physical custody of the child, and to pay for the child's support, in accordance with the respondent's financial means; or~~

210 5. Failure to terminate the relationship of parent and child will result in continued emotional
211 instability or physical risk to the child. In making a determination under this paragraph, the Court shall
212 consider all relevant factors, including:

213 A. Whether the conditions that led to the child's placement, or similar conditions of a harmful
214 nature, continue to exist and there appears to be little likelihood that these conditions will be remedied at
215 an early date which would enable the respondent to discharge parental responsibilities so that the child
216 can be returned to the respondent in the near future;

217 B. The respondent's efforts to assert parental rights of the child, and the role of other persons in
218 thwarting the respondent's efforts to assert such rights;

219 C. The respondent's ability to care for the child, the age of the child, the quality of any previous
220 relationship between the respondent and the child or any other children;

221 D. The effect of a change of physical custody on the child; and

222 E. The effect of a delay in termination on the chances for a child to be placed for adoption.

223 b. In the case of a child in the home of a stepparent, guardian, permanent guardian or blood relative:

224 1. The child has resided in the home of the stepparent, guardian, permanent guardian or blood
225 relative for a period of at least 1 year, or for a period of 6 months in the case of an infant; and

226 2. The Court finds the respondent is incapable of discharging parental responsibilities, and there
227 appears to be little likelihood that the respondent will be able to discharge such parental responsibilities in the
228 near future.

229 (5) Failure to plan, DSCYF or licensed agency. A child is in DSCYF custody or placed by a licensed agency
230 and the respondent is not able or has failed to plan adequately for the child's physical needs or mental and emotional
231 health and development, and at least 1 of the following conditions are met:

232 a. The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.

233 b. The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the
234 child came into care as an infant.

235 c. DSCYF previously had custody of the child or another child of the respondent.

236 d. The respondent has a history of dependency, neglect, abuse, or lack of care of the child or another
237 child.

238 e. The respondent is incapable of discharging parental responsibilities due to extended or repeated
239 incarceration, but the Court may consider the respondent's postconviction conduct.

(6) Failure to plan, private. The child is a dependent child or neglected child in the respondent's care at the time of the hearing and the Court finds that all of the following exist:

a. The petitioner is the child's parent, guardian, permanent guardian, or relative.

b. The child has resided in the petitioner's home for at least 1 year.

c. The respondent failed to discharge parental responsibilities for at least 12 of the 18 months preceding the filing of the petition.

d. The respondent is unlikely to be able to remedy the dependency or neglect in the near future. In making this determination, the Court shall consider the respondent's efforts to remedy the dependency or neglect.

~~(6) (7) Prior involuntary termination. The respondent's parental rights over a sibling of the child who is the subject of the petition~~ another child have been involuntarily terminated in a prior proceeding. terminated.

~~(7) (8) Abuse. The parent respondent~~ has subjected a child to torture, chronic abuse, sexual abuse, and/or or life-threatening abuse.

~~(8) (9) Unexplained serious injury or death. A child has suffered unexplained serious physical injury, near death death, or death under such circumstances as would indicate that such circumstances indicating that the injuries, near death death, or death resulted from the respondent's intentional or reckless conduct or wilful neglect of the parent willful neglect.~~

(b) Unless adoption is contemplated, the termination of 1 parent's rights shall may not be granted if the effect will be to leave only 1 parent holding parental rights, unless the Court shall find the continuation of the rights to be terminated will be harmful to the child finds that continuing the rights to be terminated will cause the child serious physical or emotional harm.

(c) Nothing in this chapter shall may be construed to authorize any a court to terminate the rights of a parent to a child, solely because the parent, in good faith, provides for his or her child, parent provides for the child, in good faith and in lieu of medical treatment, treatment by spiritual means alone through prayer in accordance with under the tenets and practice of a recognized church or religious denomination. However, nothing contained herein shall prevent under this chapter prevents a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect his or her the child's health and welfare.

~~(d) The Department is not required to perform, but is not prohibited from performing, reunification and related services as outlined in Chapter 90 of Title 29 when the grounds for termination of parental rights are those stated in paragraph (a)(2), (4), (6), (7) or (8) of this section. DSCYF is not required to perform reunification or related services under Chapter 90 of Title 29 when the Court finds by clear and convincing evidence that a ground for termination of a parent's rights exists under paragraphs (a)(2), (4), (7), (8), or (9) of this section. Notwithstanding the Court's finding, DSCYF may elect, in its sole discretion, to perform reunification or related services under Chapter 90 of Title 29.~~

Section 4. Amend § 1104, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1104. ~~Persons eligible~~ Eligibility to petition for termination of parental rights.

A petition for the termination of parental rights may be filed by any of the following:

(1) ~~The mother of a child;~~ A parent or presumed father of the child.

(2) ~~The father or presumed father of a child;~~

(3) ~~Both parents of a child;~~

(4) ~~(2) A blood relative of a child;~~ the child.

(5) ~~(3) The Department or a licensed agency;~~ DSCYF or a licensed agency.

(6) ~~(4) A guardian or permanent guardian of the child.~~

Section 5. Amend § 1105, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1105. Contents of petition.

(a) ~~The~~ A petition for the termination of parental rights ~~shall state~~ must state all of the following:

(1) ~~Name and place of residence of the petitioner or petitioners;~~ The petitioner's name and address.

(2) ~~Name, sex, date of birth and place of birth of the child;~~ The child's name, date of birth, and place of birth.

(3) ~~Relationship of the petitioner or petitioners to the child or the fact that no such relationship exists;~~ The petitioner's relationship to the child or the fact that no relationship exists.

(4) ~~The name and address of the mother and the address of the father or presumed father;~~ The name and address of each parent or presumed father, or name and address of the organization holding parental rights.

(5) ~~Where~~ a. If the name and address of the father is not provided under paragraph (a)(4) of this section, a statement, statement with an affidavit from the mother petitioner must be attached to the petition, that stating at least 1 of the following:

a. 1. The mother knows the name of the biological father but is unwilling to disclose his name; or the father's name.

b. 2. The mother does not know the name of the biological father; or father's name.

c. 3. The mother knows the name of the biological father father's name and has provided it, but that she the mother has never known his address; and the father's address.

d. The mother's husband, if she was married at the time of the child's conception or birth, is not the child's biological father. 4. The mother's husband when the child was conceived or born, if any, is not the child's father.

b. ~~If the mother is unavailable or refuses to provide the requisite affidavit, information required under paragraph (a)(5)a. of this section, the petition shall set forth such information as required by this paragraph as is known to the petitioner; must include as much information that is required under paragraph (a)(5)a. of this section as the petitioner knows.~~

c. ~~If the name or address of a parent is omitted, the petition must include detailed information on the efforts made to locate the missing name or address. The information must include a statement that the petitioner has inquired to determine if either of the following apply to the individual who gave birth to the child:~~

~~1. The individual was married at or after the probable time of the child's conception.~~

~~2. The individual named a father on the child's birth certificate.~~

~~(6) The name and last known address of the person or persons or organization holding parental rights and the name and address of the person or persons or organization having the care, control or custody of the child; The name and address of the person or organization having the care, control, or custody of the child.~~

~~(7) The grounds ground for termination of parental rights; rights.~~

~~(8) If the child's parent, guardian, permanent guardian, or relative petitions under § 1103(a)(6) of this title, a detailed statement of why the child would be a dependent child or neglected child in the respondent's care.~~

~~(9) In addition to other pertinent information, the petition, if either the name or address of the parent or parents is not included, shall furnish detailed information concerning the efforts made to locate the parent or parents. This information shall include a statement that the petitioner has inquired to determine whether the woman who gave birth to the child was married at the probable time of conception of the child, or at a later time, and whether the woman has named any individual as the father on the birth certificate of the child.~~

~~(9) If a petition is filed under § 1103(b) of this title, a detailed statement of the serious physical or emotional harm to the child.~~

~~(8) (10) The name and address of the person or persons or of the Department person, DSCYF, or licensed agency to which parental rights are requested to be transferred; transferred.~~

~~(10) A (11) If DSCYF is the petitioner and requesting that both parents' rights be terminated, a statement that the petitioner has explored the possibility of placement of the child with blood relatives, if both parents' rights are being terminated, placing the child with relatives and the results of such efforts; and those efforts.~~

~~(11) (12) A statement outlining what other placement efforts have been taken, efforts, if any.~~

~~(12) A statement that each birth parent has been advised of the birth parent's right to make a no-contact declaration pursuant to § 962 of this title.~~

(b) Executed consents and written certifications required by § 1106 of this title and waivers of notice as permitted by § 1106A of this title shall accompany the petition as exhibits. An executed consent or written certification under § 1106 of this title or a waiver of notice under § 1106A of this title must accompany the petition as an exhibit.

(c) ~~In any case in which a petition for the termination of parental rights has been filed pursuant to § 1103(a)(1) of this title and the Department or a licensed agency is a party to the proceeding, there shall be attached to the petition a social report. In any case in which a petition for the termination of parental rights has been filed on any other ground set forth in § 1103(a) of this title and the Department or a licensed agency is a party to the proceeding, a social report shall be filed no later than 1 week prior to the date of the hearing on the petition. If DSCYF or a licensed agency is a party to a petition filed under § 1103(a)(1) of this title and each respondent has waived that respondent's right to notice under § 1106A of this title, the petition must be accompanied by a social report prepared under § 1107 of this title.~~

(d) A petition under this chapter must be accompanied by a notarized written consent executed by the person or organization to which parental rights are requested to be transferred, indicating that the person or organization agrees to accept parental rights over the child until an adoption is finalized, unless the petition is filed under § 1103(b) of this title.

(e) A petition under this chapter in which DSCYF or a licensed agency is not a party must be accompanied by a petition for adoption, unless the petition is filed under § 1103(b) of this title.

Section 6. Amend § 1106, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1106. ~~Consent requirements; waiver of notice requirements.~~

(a) ~~In the case of proceedings based on~~ In a proceeding under § 1103(a)(1) of this title ~~consent shall be title,~~ consent is required from all of the following:

a. ~~The mother of the child;~~

b. ~~The father and any presumed father of the child; provided that:~~

(1) The mother, father, and, if applicable, presumed father of the child.

~~1. The consent of an alleged biological father or presumed father need not contain an admission of paternity. In the event the alleged biological father or presumed father denies paternity, an affidavit to that effect signed by him shall be attached to the petition in lieu of a consent;~~ a. An admission of paternity is not required for an alleged father's or presumed father's consent. If the alleged father or presumed father denies paternity, the petition must include, in lieu of a consent, an affidavit denying paternity that the alleged father or presumed father signed.

~~2. In the event that the mother was married at the time of the child's conception or birth but her husband at those times is not the biological father of the child, a notarized statement of the husband that he is not the biological father of the child shall be prima facie proof thereof in the absence of evidence to the~~

contrary. If such a notarized statement of the legal husband cannot be obtained, a notice of hearing shall be sent to him as provided in § 1107 of this title; b. If the mother was married when the child was conceived or born, but the mother's husband at conception or birth is not the child's biological father, the husband's notarized statement that the husband is not the child's biological father is prima facie proof that the husband is not the biological father, absent evidence to the contrary. If the husband's notarized statement cannot be obtained, a notice of hearing must be sent to the husband under § 1107 of this title.

~~3. In the event of a petition containing statements described in § 1105(a)(5)a., b. or c. of this title, after a hearing in which it is established on the record that the mother and father of the child are not living together as husband and wife openly and that they have not done so nor married since the birth of the child, the Court may, following consideration of the social report, dispense with the requirement of the father's consent in compliance with § 1115 of this title; c. If a petition contains a statement under § 1105(a)(5)a.1., 2., or 3. of this title and the Court finds, after a hearing and in consideration of the social report, that the child's mother and father are not living together openly as husband and wife and they have not done so and have not married since the child's birth, the Court may waive the requirement of the father's consent.~~

~~e. (2) One parent alone, if the other is deceased; deceased.~~

~~d. Any other person or persons or organization holding parental rights; (3) Another person or organization holding parental rights.~~

~~e. (4) One parent alone if the termination of the other parent's rights is being sought based on grounds as in § 1103(a)(2), (3), (4) or (5) of this title sought on another ground.~~

~~(b) If the person in whom the right to consent exists is under the age of 18, this fact shall not be is not a bar to the giving of consent nor and does not render the consent invalid when given, provided the requirements of subsections (c) and (d) if the requirements under subsections (d) and (e) of this section are met.~~

~~(c) A mother whose consent to the termination of parental rights is required may execute a consent only after the child is born. Consent by the father or presumed father may be executed A father or presumed father may execute a consent either before or after the child is born. A consent executed by a parent or guardian must be signed or confirmed in the presence of:~~

~~(1) A judge of a court of record;~~

~~(2) An individual designated by a judge to take consents;~~

~~(3) An employee designated by an agency to take consents;~~

~~(4) A lawyer other than a lawyer who is representing an adoptive parent or the agency to which parental rights will be transferred;~~

(5) ~~A commissioned officer on active duty in the military service of the United States, if the individual executing the consent is in military service; or~~

(6) ~~An officer of the foreign service or a consular officer of the United States in another country, if the individual executing the consent is in that country.~~

The Court may accept a parent or guardian's verbal consent after a verbal review on the record of the information required pursuant to § 1106A of this title.

(d) A consent by a parent, agency, or organization holding parental rights must be executed in at least 1 of the following ways:

(1) Signed or confirmed in the presence of at least 1 of the following:

a. A judge or commissioner of a court of record.

b. An individual that a judge has designated to take a consent.

c. An employee that an agency has designated to take a consent.

d. A lawyer other than the lawyer representing an adoptive parent or the agency to which parental rights will be transferred.

e. A commissioned officer on active duty in the military service of the United States, if the individual executing the consent is in military service.

f. An officer of the foreign service or a consular officer of the United States in another country, if the individual executing the consent is in that country.

(2) Made orally and accepted by the Court after a review on the record of the information required under § 1106A of this title.

~~(d)~~ (e) An individual before whom a consent is signed or confirmed under subsection ~~(e)~~ (d) of this section shall certify in writing or orally before the Court that ~~he or she~~ the individual explained the contents and consequences of the ~~consent, and to the best of his or her~~ consent and, to the best of the individual's knowledge or belief, the individual executing the consent did all of the following:

(1) Read or was read the consent and understood it; it

(2) Entered into the consent voluntarily; and voluntarily.

(3) If the individual executing the consent is a parent who is a minor, was advised by a lawyer who is not representing an adoptive parent or the agency to which parental rights are being transferred.

~~(e) Every petition shall be accompanied by a formal written consent executed by the person or persons for whom or the organization to which parental rights are requested to be transferred indicating that the person or persons or organization agrees to accept parental rights over the child.~~

(f) Once the requirements of ~~subsections (c) and (d)~~ under subsections (d) and (e) of this section have been met, the consent to termination and transfer of parental rights is irrevocable unless the requirements of under § 1106B(a) of this title have been met.

Section 7. Amend § 1106A, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1106A. Contents of consent to terminate and transfer parental rights.

(a) A consent ~~required from a parent or guardian to terminate and transfer parental rights~~ must contain all of the following:

(1) The date, ~~place~~ place, and time of the execution of the ~~consent~~; consent.

(2) The name, date of birth, and current mailing address of the individual executing the ~~consent~~; consent.

(3) The date of birth and the name or pseudonym of the ~~child~~; child.

(4) The name, ~~address~~ address, and telephone number of the agency to which parental rights are being ~~transferred~~; transferred.

(5) Information regarding the birth parent's right to file a notarized statement ~~pursuant to~~ under § 923(b) of this title regarding ~~access by the child~~ the child's access to identifying information regarding the birth parent, if the child is ~~adopted~~; adopted.

(6) A statement that the individual executing the consent understands that after the consent is signed and confirmed ~~pursuant to § 1106(c) and (d)~~ under § 1106(d) and (e) of this title, it is final and may not be revoked or set aside ~~for any reason~~ unless the requirements of ~~§ 1106B(a)~~ under § 1106B(a) or (b) of this title have been ~~met~~; met.

(7) A statement that the individual executing the consent understands that the termination will extinguish all ~~of that individual's~~ parental rights and obligations of the individual executing the consent has with respect to the child, except for arrearages of child ~~support~~; support.

(8) A statement that the individual executing the consent has received a copy of the ~~consent~~; and consent.

(9) A statement that the individual executing the consent has not received or been promised ~~any~~ money or anything of monetary value for the consent.

(b) A consent may contain ~~a statement that~~ 1 or more of the following statements:

(1) The ~~individual who is~~ consenting individual waives notice of ~~any~~ a proceeding for termination of parental rights under § 1107A of this ~~title~~; and/or title.

(2) The consent may be revoked if at least 1 of the following occur:

a. Another consent is not executed within a specified ~~period~~; or period.

b. A court ~~decides not to terminate another individual's parental rights in the child~~. denies the termination of the other parent's rights in the child.

459 c. Another condition occurs as agreed upon by each party.

460 Section 8. Amend § 1106B, Title 13 of the Delaware Code by making deletions as shown by strike through and
461 insertions as shown by underline as follows and by redesignating accordingly:

462 § 1106B. Revocation of consent to termination and transfer of parental rights.

463 (a) A consent may be revoked if any of the following occur:

464 (1) Within 14 days of executing the consent, the parent who executed the consent ~~notifies in writing~~ delivers
465 written notification of revocation to the agency or individual to which the parental rights ~~had been transferred that the~~
466 ~~parent revokes the consent;~~ are to be transferred.

467 (2) The parent complies with ~~any other instructions~~ another instruction for revocation which ~~were~~ was
468 ~~specifically set forth in the consent;~~ or stated in the consent under § 1106A(b)(2)c. of this title.

469 (3) The individual who executed the consent and the agency or individual that accepted the consent ~~agrees~~
470 agree to its revocation.

471 (b) The Court shall set aside a consent if the individual who executed the consent establishes at least 1 of the
472 following:

473 (1) By clear and convincing evidence, before a decree of adoption is issued, that the consent was obtained by
474 ~~fraud or duress;~~ or duress.

475 (2) By a preponderance of the evidence that a condition permitting revocation has occurred, as expressly
476 provided for in the consent under § 1106A(b)(2)c. of this title ~~has occurred.~~

477 (c) If consent is revoked ~~pursuant to~~ under this section, the Court must determine custody of the child ~~shall be~~
478 ~~determined~~ as follows:

479 (1) If the individual who executed the consent had legal and physical custody of the child when the consent
480 was executed, legal and physical custody of the child ~~shall~~ must be immediately returned to the individual, unless the
481 Court finds that the child is dependent or neglected; a dependent child or neglected child as to the individual.

482 (2) If the individual who executed the consent did not have legal ~~and/or~~ or physical custody of the child when
483 the consent was executed, custody of the child ~~shall~~ must revert to the individual or organization that held custody ~~at~~
484 ~~the time when~~ when the consent was executed. ~~If alternative grounds~~ another ground for termination of parental rights exists
485 under § 1103 of this title for termination of parental rights exist, title, the petitioner may proceed on ~~those grounds~~ that
486 ground.

Section 9. Amend § 1107, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1107. Time for hearing; preparation of social report.

(a) ~~When~~ If a petition for the termination of parental rights is filed ~~in which the Department or~~ and DSCYF or a licensed agency is a party to the ~~proceedings,~~ proceedings, the Court shall set a date for ~~a hearing thereon,~~ on the petition and shall cause notice of the time, ~~place~~ place, and purpose of the hearing to be served as required ~~in~~ under § 1107A of this title. Absent good cause, a social report must be filed no later than 1 week prior to the hearing.

(b) ~~When~~ If a petition for termination of parental rights is filed and ~~the Department or licensed agency is not a~~ party to the ~~proceeding,~~ the Court shall, before any hearing, ~~order a social study and report on the petition, by the~~ Department or a licensed agency, ~~to be filed within 4 months, subject to such additional time as the Court shall determine is~~ reasonably required. DSCYF or a licensed agency is not a party, the Court shall order DSCYF or a licensed agency to file a social report within 6 months. The Court shall set a date for a hearing to take place after the report is to be filed, but not earlier than 12 months after the filing of the petition for proceedings under § 1103(a)(6) of this title, and notice ~~shall~~ must be accomplished ~~as provided in~~ under § 1107A of this title.

(c) ~~All hearings shall be held before the Court privately, but for reasons appearing sufficient to the Court, the~~ hearing in any particular case ~~may be public.~~

(c) The information contained in the social report must consider the best interest factors under § 722 of this title and include all of the following:

(1) Information regarding the child and the child's background.

(2) The history of the child's custody, visitation, and living arrangements.

(3) Information regarding the parents.

(4) Information regarding the petitioners.

(5)a. Information regarding efforts at reunification with the parents if the petition is filed under § 1103(a)(5) of this title.

b. Information regarding the allegations of dependency and neglect if the petition is filed under § 1103(a)(6) of this title.

(6) The plan for the child if the petition is granted.

(7) A statement that the person preparing the social report or the petitioner has advised each birth parent whose name and whereabouts are known to the petitioner of the birth parent's right to file a written notarized statement with the Office of Vital Statistics denying the release of identifying information under § 923(b) of this title.

Section 10. Amend § 1107A, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1107A. Notice of hearing to terminate and transfer parental rights.

(a) Notice of the time, ~~place~~ place, and purpose of the hearing ~~shall~~ must be served upon the ~~parent or parents,~~
~~person or persons~~ parent, person, or organization holding parental rights at the respondent's last known address or to the
address recited in the ~~petition.~~ petition, unless the respondent has waived the notice under § 1106A(b) of this title. The
Court may require notice to be served on another person.

(b) ~~No such notice of hearing shall be necessary if a waiver executed by the parent or parents, person or persons or~~
~~organization holding parental rights has been filed with the petition, in accordance with § 1106A(b) of this title. The Court~~
~~may require notice to be served upon any other person or organization. If a petition is filed under § 1103(a)(6) of this title,~~
notice must include both of the following:

(1) Information from the detailed statement required under § 1105(a)(8) of this title sufficient to put the
respondent on notice of the allegations made against the respondent.

(2) A statement that the respondent has an opportunity to cure the alleged dependency or neglect through
conduct subsequent to the filing of the petition.

(c) If, at any time in a proceeding for termination of parental rights, the Court finds that an unknown ~~father~~ parent
of the child may not have received notice, the Court shall determine whether ~~he~~ the parent can be identified. The
determination must be based on ~~evidence that includes~~ a review of all of the following:

(1) ~~The information required by § 1105(a)(9) of this title;~~ under § 1105(a)(5)c. of this title.

(2) ~~Whether the woman~~ If another parent has filed for or received payments or promises of support, other than
from a governmental agency, with respect to the child or because of ~~her pregnancy;~~ and the pregnancy.

(3) ~~Whether any~~ If an individual has formally acknowledged or claimed ~~paternity~~ parentage of the child.

(d) If inquiry ~~pursuant to~~ under subsection (c) of this section identifies ~~as the father~~ a parent of the child ~~an~~
~~individual~~ who has not received notice of the proceeding, the Court shall require notice to be served ~~upon him pursuant to~~
on the parent under this section.

(e) If, in an inquiry ~~pursuant to~~ under this section, the woman who gave birth to the child and who is consenting to
the termination of ~~her~~ the woman's parental rights fails to disclose the identity of ~~a possible~~ an alleged father or reveal his
whereabouts, ~~she must be advised by the petitioner that~~ the petitioner must advise the woman of both of the following:

(1) ~~the~~ The proceeding for adoption under Chapter 9 of this title may be delayed or subject to challenge if a
~~possible~~ an alleged father is not given notice of the proceeding.

(2) ~~and that the~~ The lack of information about the father's medical and genetic history may be detrimental to
the child.

(f)(1) If the Court ~~shall find~~ finds that personal service within the State cannot be accomplished upon the parent or parents, person or ~~persons~~ persons, or organization holding parental rights, the Court shall then cause notice of the time, place ~~place~~, and purpose of the hearing to be published ~~once a week, for 3 successive weeks, in at least 1 of the following~~ methods:

a. On a legal notices website established by the Court, for at least 3 successive weeks.

b. ~~in such newspaper of the county, 1 or more, as the Court~~ In a newspaper of 1 or more counties, as the Court may judge best for giving the parent or parents, or person or ~~persons~~ persons, or organization holding parental rights ~~notice~~, notice. The notice must be published once per week, for 3 successive weeks.

~~(2) the formal wording of said notice to~~ The formal wording of a notice under this section must be approved by the Court.

(3) Publication shall also be made in the locality in which the parent or parents, person or ~~persons~~ persons, or organization holding parental rights is believed to be located if different from the county where the publication just described has been caused.

(4) The Court may, upon ~~request by the petitioner,~~ the petitioner's request, order that personal service and publication occur simultaneously.

(g) ~~If any publication is ordered pursuant to subsection (f) of this section, the Court shall also order that the Clerk of the Court, at least 3 weeks prior to the hearing, send by regular and registered or certified mail to the parent or parents or person or persons or organization person holding parental rights, at the address or addresses given in the petition, a copy of the same notice, or a similar notice of the time, place and purpose of the hearing. If the Court orders publication under subsection (f) of this section, the Court shall order the Clerk of Court to send a copy of the notice, or a similar notice, of the time, place, and purpose of the hearing to each parent or organization holding parental rights of the child. The notice must be sent meeting all of the following criteria:~~

(1) By regular and registered or certified mail.

(2) At least 3 weeks prior to the hearing.

(3) At all addresses in the petition given for the parent or organization.

(h) Personal service ~~at any time prior to the hearing shall be~~ any time before the hearing is sufficient to give jurisdiction.

(i) Notice provided ~~pursuant to~~ under this section ~~shall constitute~~ constitutes conclusive evidence of service and a hearing ~~will then~~ may proceed at the time and date set, with or without the appearance of the ~~parent or parents, person or persons~~ parent, person, or organization so notified.

(j) The Budget Act shall provide ~~the Department~~ DSCYF with appropriated special fund (ASF) authority ~~in order~~ to provide public notice of court action ~~or actions involving minors under the Department's~~ involving a minor in DSCYF's

custody whose parents' whereabouts are unknown, ~~per~~ under Family Court rules. ~~Any other fees, assessments, costs or financial obligations imposed by Family Court for the issuance and service of subpoenas or summons by way of court rules, regulations or administrative procedures may not be charged to the Department. Any such costs associated with these procedures shall be the financial responsibility of Family Court. The Court may not impose upon DSCYF another fee, cost, or financial obligation for the issuance or service of subpoenas or summons by court rule, regulation, or administrative procedure. Other costs associated with the procedures under this section are the Court's financial responsibility.~~

(k) A hearing under this chapter must be held privately before the Court, unless the Court determines that sufficient reason exists to hold the hearing publicly.

Section 11. Amend § 1108, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1108. Order of termination and transfer of parental rights.

(a) ~~Should the Court find the termination of existing parental rights and their transfer to be in the best interest of the child, it shall make an order terminating such rights in the parent or parents, person or persons or organization in which they have existed and transferring them to some other person or persons or the Department or a licensed agency as may, in the opinion of the Court, be best qualified to receive them. If the Court finds by clear and convincing evidence both that a ground exists for the termination of existing parental rights and termination and transfer of the rights is in the child's best interest, the Court shall order the termination of the rights in the parent, person, or organization in which the rights have existed and transfer the rights to another person, DSCYF, or a licensed agency, as the Court determines is best qualified to receive the rights.~~

(b) ~~In the case of proceedings based on § 1103(a)(1) of this title in which all individuals entitled to consent have~~
(1) In a proceeding under § 1103(a)(1) of this title in which each individual entitled to consent has waived notice of hearing and the right to appear at such the hearing in accordance with § 1106(d) under § 1106(e) of this title, the Court shall issue its decision and order within 30 days after the filing of the petition and social report.

(2) ~~In all other cases,~~ In a proceeding under this chapter that does not qualify under paragraph (b)(1) of this section, the Court shall issue its decision and order within 30 days following the conclusion of the ~~proceedings~~ proceeding.

(c) ~~If a child is abandoned by 1 parent only, the rights of such parent may be terminated without affecting the rights of the other.~~

(d) ~~Upon the expiration of 6 months from the date of the entry of the order of termination of parental rights of the parent or parents, any irregularities in the proceedings shall be deemed cured;~~ (c) An irregularity in a proceeding under this chapter is deemed cured on the expiration of 6 months from the date of the entry of the order of termination of parental rights of a parent, and a party over whom the Court established personal jurisdiction may not attack the validity of such

613 ~~decree shall not thereafter be subject to attack~~ the order, either through a collateral or direct ~~proceedings by named parties~~
614 ~~over whom the Court had established personal jurisdiction~~ proceeding.

615 Section 12. Amend § 1109, Title 13 of the Delaware Code by making deletions as shown by strike through and
616 insertions as shown by underline as follows and by redesignating accordingly:

617 § 1109. Petition for transfer of parental rights of deceased parents.

618 ~~When the mother and/or the father or presumed father of a child are deceased, the Department or a licensed agency~~
619 ~~may file a petition to transfer the parental rights of the deceased parent or parents to the Department or licensed agency for~~
620 ~~the purpose of adoption planning when such appears to be in it the best interest of the child. The petition shall contain:~~
621 DSCYF or a licensed agency may file a petition to transfer the parental rights of a deceased parent if it appears that
622 adoption is in the best interest of the child. A petition under this section must include all of the following:

623 (1) Name and ~~place of residence~~ address of the ~~petitioner or petitioners;~~ petitioner.

624 (2) Name, ~~sex, date~~ date, and place of birth of the ~~child;~~ child.

625 (3) ~~The names, places of residence and dates of death of the mother and/or the father or presumed father of the~~
626 ~~child;~~ Name, address, and date of death of the deceased parent.

627 (4) ~~Certified copies of the death certificates of the parents of the child; and~~ A certified copy of the death
628 certificate of the deceased parent.

629 (5) A statement that the petitioner has explored the possibility of ~~placement of~~ placing the child with blood
630 relatives and the results of ~~such~~ the efforts.

631 Section 13. Amend § 1110, Title 13 of the Delaware Code by making deletions as shown by strike through and
632 insertions as shown by underline as follows and by redesignating accordingly:

633 § 1110. Appeals.

634 ~~The petitioner, if the petition is not granted, or any person or organization whose parental rights have been~~
635 ~~terminated by the order, Each party~~ may, at any time within 30 days after the ~~making and entry of such decree~~ issuance of
636 the written order, take an appeal therefrom to the Supreme Court.

637 Section 14. Amend § 1111, Title 13 of the Delaware Code by making deletions as shown by strike through and
638 insertions as shown by underline as follows and by redesignating accordingly:

639 § 1111. Court costs.

640 ~~All court costs including costs of giving notice and advertising shall be paid by the petitioners. Court costs do not~~
641 ~~include attorney fees of the respondent or respondents. Except as provided under § 1107A of this title, the petitioner shall~~
642 pay all court costs, including costs for giving notice and advertising. As used in this section, “court costs” does not include
643 the respondent’s attorney fees.

Section 15. Amend § 1112, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1112. Confidential nature of ~~court~~ records.

(a) ~~All court records and dockets pertaining to any termination shall be confidential and shall be kept by the Clerk of the Court in a sealed container which shall be opened only by the order of a Judge of the Family Court, except as provided in subchapter III of Chapter 9 of this title.~~ (1) Each court record and docket relating to a proceeding under this chapter is confidential.

(2) The Clerk of the Court shall keep in a sealed container each court record and docket relating to a proceeding under this chapter.

(3) A court record or docket relating to a proceeding under this chapter may be opened only by an order of a judge of the Court.

(b) ~~Nothing in this section shall be construed in such a way as to restrict the Department~~ may be construed to restrict DSCYF or a licensed agency from releasing nonidentifying information in its records to ~~any of the parties~~ a party to the a termination proceeding under this chapter.

(c) ~~Identifying information, such as names and addresses, shall not be released by the Department or a licensed agency except:~~ DSCYF or a licensed agency may not release identifying information, such as a name or address, except under at least 1 of the following circumstances:

(1) By Court order of the Court; order.

(2) According to § 929 of this title; or Under § 929 of this title.

(3) According to subchapter III of Chapter 9 of this title. Under Subchapter III of Chapter 9 of this title.

(d) ~~In cases where the adopted individual's health or the health of any blood relative of the adopted individual is concerned and the agency has refused to release the health information to the adopted individual, the Court, through petition by the adopted individual, may permit the individual to inspect only that part of the agency or court record containing medical information for health reasons. The Court shall order open to inspection by the adopted individual the part of the record containing the needed medical information if the Court finds that any medical information in the court or agency record of the adopted individual is needed for the health of the adopted individual or any blood relative of the adopted individual. This section shall apply to information as to the identification and location of any biological sibling of the adopted individual if the adopted individual's health or the health of any blood relative of the adopted individual depends on the sibling's participation in any medical treatment.~~

(1) An adopted individual may file a petition if the adopted individual's health or the health of the adopted individual's blood relative is of concern and the agency refuses to release needed health information to the adopted individual.

(2) A Court order may permit an adopted individual to inspect only that part of the Court's or an agency's record containing needed health information if the Court finds that the adopted individual's health information is both of the following:

a. Contained in the Court's or agency record.

b. Needed for the health of the adopted individual or the health of the adopted individual's blood relative.

(3) This section applies to information relating to the identification or location of the adopted individual's biological sibling if the health of the adopted individual or the adopted individual's blood relative depends on the biological sibling's participation in a medical treatment.

(e) ~~Anyone wishing~~ (1) A person that wishes to inspect the papers filed in connection with any termination shall a proceeding under this chapter may petition the Family Court or the court of original jurisdiction setting forth the reasons stating the reason for the inspection.

(2) The Court may refer the petition to the Department a petition under this section to DSCYF or a licensed agency for investigation and report.

~~If, in the opinion of the Court, the information is necessary, and the interests of the adopted individual, the biological parents or the adoptive parents will not be prejudiced by its disclosure, the Court shall issue an order permitting the release of the information and setting forth the terms under which it shall be released.~~ (3) The Court shall issue an order permitting the release of the information requested and establishing the terms under which the information may be released if the Court finds all of the following:

a. Release of the information is necessary.

b. Release of the information will not prejudice the interests of the adopted individual, biological parent, or adoptive parent.

Section 16. Amend § 1113, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1113. Effect of termination of parental rights.

(a) Upon the issuance of an order terminating the existing parental rights and transferring such the parental rights to another person or organization, ~~the effect of such order shall be that~~ all of the rights, duties, ~~privileges~~ privileges, and obligations recognized by law between the person ~~or persons~~ whose parental rights are terminated and the child shall forever thereafter cease to exist. The person or organization to whom ~~said~~ the parental rights are transferred ~~shall have~~ has custody and guardianship of the ~~child but such~~ child, but the custody and guardianship shall terminate automatically upon the entry of another order transferring parental rights or ~~on~~ an order of adoption.

(b) ~~(1)~~ Upon the issuance of an order terminating the existing parental rights and transferring ~~such the~~ the parental rights to another person or organization, the child ~~shall lose~~ loses all rights of inheritance from ~~the parents~~ each parent whose parental rights were terminated and from ~~their the parent's~~ the parent's collateral or lineal ~~relatives and the parents~~ relatives.

(2) A parent whose parental rights ~~were~~ are terminated and ~~their the parent's~~ the parent's collateral or lineal relatives ~~shall~~ lose all rights of inheritance from the child.

(c) ~~Nothing contained in this section shall limit in any way the right of any person to provide for the disposition of his or her property by will.~~ This section does not limit the right of an individual to provide for the disposition of the individual's property by will.

(d) The termination of 1 parent's rights does not affect the other parent's rights.

Section 17. Amend § 1114, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1114. Placement for adoption and post-termination placement order.

~~After the issuance of an order terminating the~~ If the Court issues an order terminating existing parental rights and transferring them to ~~the Department~~ DSCYF or a licensed agency, all of the following must occur:

~~the~~ (1) The agency shall attempt to promptly place the child for adoption.

(2) Every 6 months thereafter after the Court issues the order, or more frequently at the Court's discretion, and until an adoption decree ~~decree, guardianship,~~ or permanent guardianship order is entered the agency shall advise the Court in writing of the status of the child stating the reasons for the delay in placement or adoption. The Court may, after notice, hold a hearing to determine if any further action is required in the best interest of the child. When a child has been in a guardianship for at least 2 years, the Department may petition the Court for permission to provide reports on a 12-month basis. entered, the Court shall convene a hearing or require the agency to submit to the Court a written report that must include at least all of the following:

a. Details of the agency's reasonable efforts toward finalizing a permanency plan.

b. A description of the steps the agency took to achieve the permanency plan.

c. A description of barriers to the permanency plan and how the barriers may be overcome.

Section 18. Amend § 1115, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1115. Interpretation.

~~This chapter is designed to achieve without undue delay the paramount objective of the best interest of the child, and all questions of interpretation shall be resolved with that objective in mind.~~ This chapter is intended to promote without undue delay the paramount objective of advancing the best interest of the child, and a question of interpretation must be construed liberally to achieve this legislative intent.

Section 19. Amend § 1116, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1116. Reinstatement of parental rights.

(a) A petition for reinstatement of parental rights may be filed in Family Court on behalf of ~~any child provided a~~ child if all of the following conditions are met:

(1) The child is at least 14 ~~years of age at the time of the petition is filed;~~ years old when the petition is filed.

(2) Parental rights in the child are ~~currently~~ vested in DSCYF when the petition is filed, regardless of the date parental rights were ~~terminated;~~ terminated.

(3) The child is ~~currently in DSCYF custody;~~ in DSCYF custody under Chapter 25 of this title when the petition is filed.

(4) Adoption of the child is not possible or ~~appropriate;~~ appropriate.

(5) The child consents to the ~~reinstatement;~~ reinstatement.

(6) The parent ~~or parents who are subject to reinstatement consent; and who is subject to the reinstatement~~ consents.

(7) At least 2 years have elapsed since the final termination of parental rights order or the child is 17 years ~~of~~ age old.

(b) The ~~Family Court shall retain~~ Court retains jurisdiction to reinstate parental rights in ~~any case where the~~ Family a case in which the Court previously terminated parental rights. A petition for reinstatement ~~shall~~ must be filed in the county in which the child's DSCYF custody case is heard.

(c) ~~A petition for reinstatement of parental rights may be filed by the~~ The child, the child's attorney, ~~the child's~~ guardian ad litem, or DSCYF may file a petition for reinstatement of parental rights against ~~one~~ 1 or both parents. ~~The Court, in its discretion, may also appoint an attorney to represent the child.~~

(d) Notice and service of the petition ~~shall be provided as set forth in~~ must be completed under § 3103 of Title 10 ~~and the rules of the court.~~ Court rules.

(e) ~~Should the elements of subsection (a) of this section be met;~~ (1) If the factors under subsection (a) of this section are met, the Court shall hold a hearing on the petition for reinstatement of parental rights.

(2) The Court may grant the a petition under this section if it finds by clear and convincing evidence that reinstatement is in the best ~~interests~~ interest of the child.

(f) ~~No petition granted under this section shall~~ A petition granted under this section does not affect the validity of the underlying order terminating parental rights.

(g) ~~No~~ A parent whose rights are reinstated under this section ~~shall be~~ is not liable for child support for ~~any the~~ the time period ~~in~~ during which the parent's parental rights were terminated.

770 (h) ~~No cause of action shall be created against DSCYF, the licensed agency or any other party~~ A cause of action
771 concerning the original termination of parental rights may not be brought against DSCYF, a licensed agency, or another
772 party. Upon the Court's issuance of a final order reinstating parental rights, ~~the effect of such order shall be that~~ all of the
773 rights, duties, ~~privileges~~ privileges, and obligations recognized by law between parent and child ~~shall be~~ are reinstated,
774 including ~~but not limited to~~ rights of inheritance.

775 Section 20. Section 1107A(f) of Title 13 of Section 10 of this Act takes effect only if Senate Bill No. 91 of the
776 151st General Assembly is enacted by January 1, 2023.

SYNOPSIS

This Act is the result of over 6 years of work and collaboration among the Family Court, Department of Justice, Department of Services for Youth, Children, and their Families, the Office of the Child Advocate, private adoption agencies, and the Family Law Section of the Delaware Bar Association to modernize Delaware's termination of parental rights ("TPR") statute.

This Act makes numerous technical and substantive revisions to conform and update the TPR statute with current practices and procedure, provide clarity to and ease of use for certain portions of the statute, and conform the TPR statute with the standards of the Delaware Legislative Drafting Manual. Notable changes include:

(1) Several changes to the grounds for terminating parental rights: elimination of the ground of mental incompetence, addition of murder or manslaughter of the other parent as a ground, and creation of a new ground for parents in private TPR proceedings who have failed to alleviate circumstances causing their children to be dependent or neglected in their care after receiving notice and a reasonable opportunity to address the issues.

(2) Reclassifying abandonment of a child under the Safe Arms program from an involuntary TPR to a voluntary consent.

(3) Increasing the standard to terminate the rights of only 1 parent from "harmful to the child" to "serious physical or emotional harm to the child."

(4) Eliminating the requirement to note the gender of a child in a TPR petition and, except where necessary in the context of a provision, replacing gender-based identifiers (man, woman, mother, father) with "parent."

(5) Enumerating clear requirements for the contents of a social report and providing DSCYF and licensed agencies more time to complete the social report in non-DSCYF custody cases.

(6) Relocating the required statement that a parent has been notified of the parent's right to file a written notarized statement with the Office of Vital Statistics denying the release of identifying information under 13 Del.C. § 923(b) from the petition to the social report.

(7) Eliminating DSCYF's ongoing obligation to report to the Court after permanent guardianship or guardianship is granted and DSCYF holds parental rights, and codifying Family Court Civil Rule 220 relating to Post-Termination Placement Orders.

(8) Clarifying that the Family Court has discretion whether to accept a TPR consent, DSCYF has sole discretion to plan with a parent if it has established a ground to be relieved from planning with that parent, and the time for filing an appeal begins to run after issuance of the Court's written order.

(9) Making technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including revising language to use the active voice rather than the passive voice.

Author: Senator Gay