



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1429

Introduced 2/10/2005, by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

750 ILCS 50/6

from Ch. 40, par. 1508

Amends the Adoption Act. Provides that, as part of the investigation process, the court-appointed investigator shall present to the petitioner a Future Guardianship Designee Form and information regarding guardianship so that the petitioner can include guardianship designation in the adoption process if the petitioner so chooses. Creates the Future Nomination of Guardian Form.

LRB094 08433 LCB 38636 b

1 AN ACT concerning families.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adoption Act is amended by changing Section
5 6 as follows:

6 (750 ILCS 50/6) (from Ch. 40, par. 1508)

7 Sec. 6. Investigation.

8 A. Investigation; all cases. Within 10 days after the
9 filing of a petition for the adoption or standby adoption of a
10 child other than a related child, the court shall appoint a
11 child welfare agency approved by the Department of Children and
12 Family Services, or a person deemed competent by the court, or
13 in Cook County the Court Services Division of the Cook County
14 Department of Public Aid, or the Department of Children and
15 Family Services if the court determines that no child welfare
16 agency is available or that the petitioner is financially
17 unable to pay for the investigation, to investigate accurately,
18 fully and promptly, the allegations contained in the petition;
19 the character, reputation, health and general standing in the
20 community of the petitioners; the religious faith of the
21 petitioners and, if ascertainable, of the child sought to be
22 adopted; and whether the petitioners are proper persons to
23 adopt the child and whether the child is a proper subject of
24 adoption. The investigation required under this Section shall
25 include a fingerprint based criminal background check with a
26 review of fingerprints by the Illinois State Police and Federal
27 Bureau of Investigation. Each petitioner subject to this
28 investigation, shall submit his or her fingerprints to the
29 Department of State Police in the form and manner prescribed by
30 the Department of State Police. These fingerprints shall be
31 checked against the fingerprint records now and hereafter filed
32 in the Department of State Police and Federal Bureau of

1 Investigation criminal history records databases. The
 2 Department of State Police shall charge a fee for conducting
 3 the criminal history records check, which shall be deposited in
 4 the State Police Services Fund and shall not exceed the actual
 5 cost of the records check. The criminal background check
 6 required by this Section shall include a listing of when, where
 7 and by whom the criminal background check was prepared. The
 8 criminal background check required by this Section shall not be
 9 more than two years old.

10 Neither a clerk of the circuit court nor a judge may
 11 require that a criminal background check or fingerprint review
 12 be filed with, or at the same time as, an initial petition for
 13 adoption.

14 A-5. As part of the investigation process, the
 15 court-appointed investigator shall present to the petitioner a
 16 Future Guardianship Designee Form and information regarding
 17 guardianship so that the petitioner can include guardianship
 18 designation in the adoption process if the petitioner so
 19 chooses.

20 A-7. The following form shall be known as the "Future
 21 Nomination of Guardian" and shall be used as provided for in
 22 subsection A-5 of this Section.

23 "Future Nomination of Guardian

24 I,, currently residing at
 25 , am the prospective adoptive parent of born on
 26 in

27 I hereby nominate the following person/s as the future guardian
 28 for my child:

29

30 This nomination should become effective (check one):

31On the date that I state in writing that I am no
 32 longer either willing or able to make and carry out day-to-day
 33 child care decision concerning my child.

1On the date that I am admitted as in in-patient to a
2 hospital or other health care institution.

3On the date that a physician familiar with my
4 condition certifies in writing that I am no longer willing or
5 able to make and carry out day-to-day child care decisions
6 concerning my child.

7On the date of my death.

8Other.

9 This nomination of guardianship shall only become possible upon
10 the finalization of the adoption of my above-named child.

11 Signed:..... Date:.....

12 Witnesses:

13 I saw the proposed adoptive parent/s named above sign this
14 instrument. Then I signed this instrument as a witness in the
15 presence of the parent/s. I am not nominated in this instrument
16 to act as the guardian for the child.

17 Signature, name and address of the witness:

18

19

20

21 I saw the proposed adoptive parent/s named above sign this
22 instrument. Then I signed this instrument as a witness in the
23 presence of the parent/s. I am not nominated in this instrument
24 to act as the guardian for the child.

25 Signature, name and address of the witness:

26

27

28"

29 B. Investigation; foreign-born child. In the case of a
30 child born outside the United States or a territory thereof, in
31 addition to the investigation required under subsection (A) of
32 this Section, a post-placement investigation shall be

1 conducted in accordance with the requirements of the Child Care
2 Act of 1969, the Interstate Compact on the Placement of
3 Children, and regulations of the foreign placing agency and the
4 supervising agency.

5 The requirements of a post-placement investigation shall
6 be deemed to have been satisfied if a valid final order or
7 judgment of adoption has been entered by a court of competent
8 jurisdiction in a country other than the United States or a
9 territory thereof with respect to such child and the
10 petitioners.

11 C. Report of investigation. The court shall determine
12 whether the costs of the investigation shall be charged to the
13 petitioners. The information obtained as a result of such
14 investigation shall be presented to the court in a written
15 report. The results of the criminal background check required
16 under subsection (A) shall be provided to the court for its
17 review. The court may, in its discretion, weigh the
18 significance of the results of the criminal background check
19 against the entirety of the background of the petitioners. The
20 Court, in its discretion, may accept the report of the
21 investigation previously made by a licensed child welfare
22 agency, if made within one year prior to the entry of the
23 judgment. Such report shall be treated as confidential and
24 withheld from inspection unless findings adverse to the
25 petitioners or to the child sought to be adopted are contained
26 therein, and in that event the court shall inform the
27 petitioners of the relevant portions pertaining to the adverse
28 findings. In no event shall any facts set forth in the report
29 be considered at the hearing of the proceeding, unless
30 established by competent evidence. The report shall be filed
31 with the record of the proceeding. If the file relating to the
32 proceeding is not impounded, the report shall be impounded by
33 the clerk of the court and shall be made available for
34 inspection only upon order of the court.

35 D. Related adoption. Such investigation shall not be made
36 when the petition seeks to adopt a related child or an adult

1 unless the court, in its discretion, shall so order. In such an
2 event the court may appoint a person deemed competent by the
3 court.

4 (Source: P.A. 93-418, eff. 1-1-04.)