**Section 309.70 Freeing Children for Adoption**

a) Children for whom the Department of Children and Family Services is legally responsible are free for adoption when any of the following occurs:

1) both parents of the child have signed adoptive surrenders or consents to adoption by a specified person as described in subsection (c) below; or

2) one parent has signed an adoptive surrender or consent to adoption by a specified person as described in subsection (c) below, and parental rights of the remaining parent have been terminated through court action or the remaining parent is deceased; or

3) a court has terminated the parental rights of both parents.

b) A child 14 years of age or over who is free for adoption must consent to the adoption.

c) Parents shall be informed that surrenders or consents signed prior to a court determination of abuse, neglect, or dependency may render the child ineligible for adoption assistance.

d) The following criteria apply to a surrender for adoption:

1) The parent or parents must surrender the child to the Department or a child welfare agency as defined by the Child Care Act [225 ILCS 10];

2) The surrender must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(C)];

3) The surrender authorizes the agency to place the child with a family or individual selected by the agency;

4) The agency consents to the adoption of the child when the adoption proceeding is commenced in court;

5) No surrender assented to by the mother shall be taken within the 72 hour period immediately following the birth of the child;

6) A surrender assented to by the mother not less than 72 hours after the birth of the child is irrevocable unless obtained by fraud or duress;

7) A surrender may be assented to by the father of the child prior to the birth of the child and may be revoked within 72 hours after the birth by proper written notification from the father. If not revoked by the father within 72 hours after the birth of the child, the surrender is irrevocable. The surrender of a child prior to birth must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(D)].

e) The following criteria apply to a consent to adoption by a specified person:

1) In order to execute a consent to adoption by a specified person:

A) the parent or parents must be the parents of a child in whose interests an abuse or neglect or dependency petition has been filed; and

B) the Department must approve of the consents by conducting an assessment of the person who will adopt the child, including a check of the Child Abuse and Neglect Tracking System and a Law Enforcement Agencies Data System check; and

C) the person who is named in the consent as the person who will adopt the child must be person:

i) in whose physical custody the child had resided for at least six months; or

ii) in whose physical custody at least one sibling of the child who is the subject of this consent has resided for at least six months, and the child who is the subject of the consent is currently residing in this foster home; or

iii) in whose physical custody a child under one year of age has resided for at least three months;

2) The consent shall be valid only if the persons specified in the consent adopts the child;

3) The consent shall be void if:

A) a court denies the adoption petition; or

B) the Guardianship Administrator of the Department determines that the specified persons will not or cannot complete the adoption or, in the best interest of the child, should not adopt the child; or

C) the specified person or persons do not file a petition to adopt the child within one year after the consent is signed and the birth parent files a motion in court requesting that the consent be voided after the year has elapsed.

4) Within 30 days after the consent becomes void, the Guardianship Administrator of the Department shall make good faith attempts to notify the parent, the court and all additional persons, including the State's Attorney, the guardian ad litem, attorneys for the parents, and the person who would have adopted the child as specified in the consent, that adoption has or will not occur and that the consent is void;

5) If the adoption does not occur, the biological parents who executed the consent must be notified of any further proceedings to terminate parental rights.

(Source: Amended at 26 Ill. Reg. 16449, effective October 23, 2002)