

FAMILY COURT OF ST. LOUIS COUNTY INFORMATION ON ADOPTIONS

General

- A. Purpose. This packet contains information on policies, procedures and means of processing adoption actions through the St. Louis County Family Court. Requirements for adoptions are statutory and as such are contained primarily in Chapter 453 RSMo.
- B. Jurisdiction. Jurisdiction of the St. Louis County Family Court over a particular adoption action emanates from either the continuing jurisdiction of the Court over a child pursuant to the provisions of Chapter 211 RSMo. (i.e. termination of parental rights pursuant to Section 211.447 RSMo.) or from any of the following conditions identified in Section 453.010 RSMo. (assuming the juvenile is not under the continuing jurisdiction of another court pursuant to Chapter 211 RSMo provisions):
1. The person seeking to adopt resides;
 2. The child sought to be adopted was born;
 3. The child is located at the time of filing of the petition; or
 4. Either birth parent resides within St. Louis County
- C. Types of Adoption Actions. Adoption actions can be divided into categories each of which has unique or distinct requirements for court approval. These categories include: *Adult adoptions*, in which the person being adopted is eighteen years of age or older; *Independent or Private Placement adoptions*, wherein placement of the person being adopted is accomplished without an agency involvement; *Agency adoptions*, in which a licensed child-placing agency places a child for purposes of adoption; *Stepparent adoptions*, where there are two co-petitioners to the adoption, one of which is a parent of the person to be adopted and the other is the spouse of the petitioning parent; *adoption of Children From Foreign Countries*, wherein the transfer of custody of the person being adopted was made pursuant to the laws of another country, the child is being adopted according to Missouri law.
- D. Recognition of Foreign Adoption. In addition to the adoption actions described above, this Court also formally recognizes adoptions completed according to the laws of a foreign country. Foreign adoptions, when recognized by a Missouri court, then have the same legal effect as an adoption completed under the laws of Missouri.
- E. Representation by Attorney. Adoption actions can be extremely complex and require a thorough understanding of a highly specialized area of law. For this reason, it is strongly recommended that petitioners for adoption seek the assistance of an attorney in completing these important matters.

Filing

Adoption actions filed by attorneys are initiated by e-Filing certain documents with the St. Louis County Circuit Clerk (Juvenile Division) at 105 South Central Avenue, Clayton, Mo. 63105. Attorneys must e-File their petition and all other documents. Petitioner's attorney is responsible for ensuring that all required information is filed by the specified deadlines.

Adoption actions filed by parties other than attorneys are initiated by filing certain documents with the St. Louis County Circuit Clerk (Juvenile Division) at 105 South Central Avenue, Clayton, Mo. 63105. E-Filing is not an option for filers who are not licensed Missouri attorneys, and thus, their petition and all other documents must be filed in person with the Court. All personally filed pleadings must be original documents and must be filed by the specified deadlines.

- A. The following documents must be filed in order to initiate an adoption action:
1. Petition;
 2. Family Court Adoption Filing Certificate;
 3. Affidavit of Expenses;
 4. Missouri Certificate of Decree of Adoption; and
 5. Filing Fees (See schedule at paragraph E below)
- B. Except for adult adoptions (see C.1 below), the following documents are also required, but may be filed after the initial filing; however, no later than two weeks prior to the scheduled finalization hearing:
1. Consent to adoption by each birth or legal parent, or for each parent for whom consent is not obtained, provide one of the following:
 - a. Return of Service of Summons;
 - b. Affidavit of Completed Service of Publication;
 - c. Waiver of Service;
 - d. Order Terminating Parental Rights; or
 - e. Certified Copy of Death Certificate;
 2. Updated Expense Affidavit (for additional expenses incurred after filing the expense affidavit);
 3. Home Study (stepparent adoptions require a GAL home study);
 4. Post Placement Assessment (except for stepparent adoptions);
 5. Consent of Child to Adoption (if fourteen (14) years of age or older); and
 6. Copy of Birth Certificate of Adoptee
- C. Following is a list of additional documents or unique requirements for the various types of adoptions. As in paragraph B above, these additional items may be filed subsequent to the initial filing, but must be filed no later than 4:00 p.m. two weeks prior to the scheduled finalization hearing.
1. **Adult Adoptions:** Adult Adoptions do not require items listed in B above, only those items listed in A and:
 - a. Consent of the Person Being Adopted;
 2. **Adoption of a Child from a Foreign Country:**
 - a. Consent of Agency (if custody of the child has been transferred to the agency);
 - b. Foreign Adoption/Placement Documents;
 - c. Foreign Documents Terminating Parental Rights by all Other Parents or Legal Custodians, or;
 - Consent of the Parents or Legal Custodians; or
 - Proof of Service on all parties (as provided by Missouri Supreme Court Rules);

- d. Translation into English of all Foreign Documents;
- e. Verification of the Accuracy of the Translations; and
- f. Proof of Lawful Immigration Status (Copy of Visa in child's passport or copy of permanent resident card for child)

3. **Agency Adoptions:**

- a. Consent of Agency to Adoption;
- b. Putative Father Registry Response (when required);
- c. Interstate Compact Form (when required);
- d. Transfer of Custody Order; and
- e. Transfer of Jurisdiction Order (if applicable)

4. **Relative/Independent Adoption:**

- a. Transfer of Custody Order;
- b. Putative Father Registry Response (if applicable); and
- c. Interstate Compact Form (if applicable)

5. **Stepparent Adoption:**

- a. Consent of Co-Adopting Parent (Natural/Legal Parent) (form may be modified as appropriate);
- b. Criminal History Check of Stepparent (to be completed by the petitioner's attorney);
- c. Putative Father Registry Response (if applicable); and
- d. Child Abuse/Neglect Hotline Check of Stepparent and any other adults, age eighteen (18) or older, living in the home

Please note: The petitioning attorney must request the Child Abuse/Neglect Hotline search by completing **form number SHP159J**, provided by the Missouri State Highway Patrol, and submitting it to the proper office, as indicated on the form. The attorney's request should direct the office completing the search to send their response to the attorney requesting the CAN check. The attorney should then file the completed response with the Circuit Clerk's Office at the Saint Louis County Court Building, 105 South Central Avenue, Clayton, MO, 63105 at least two weeks prior to the adoption finalization hearing date. Attorneys must e-File responses with the Court.

6. **Recognition of Foreign Adoption:** Recognition of foreign adoption does not require all the items listed in either paragraph A or B above. Rather, this Court requires that the following items be filed in these cases:

- a. Petition (original and one (1) copy);
- b. Certificate of Decree of Adoption (original and two (2) copies);
- c. Copy of Birth Certificate;
- d. Filing Fee;
- e. Foreign Documents Granting Adoption;
- f. Translation into English of all Foreign Documents;
- g. Verification of the Accuracy of Translations; and
- h. Proof of Lawful Immigration (copy of either the child's Visa from passport or permanent resident card)

Note: Expense Affidavit is not required

- D. **Petition.** At a minimum, the petition for adoption must state the basis for jurisdiction by this Court over the action and must include information satisfying the specifically enumerated requirements of Section 453.080 RSMo. All petitions for adoption shall clearly define, in the caption, the names of all the parties to the case, pursuant to Section 509.020 RSMo. The parties to the adoption, at a minimum, are the petitioner(s) and the adoptee(s). Other persons may also be required parties pursuant to other Missouri statutes, and if so, shall also be included in the caption of the petition.
- E. **Certificate of Decree of Adoption.** This form is provided by The Missouri Department of Health. To obtain a new birth certificate, the Department of Health requires an original form with no white-outs, type-overs or erasures be completed and forwarded to their office. These forms are available on-line. To obtain blank forms, please go to the Missouri Department of Health's website. To request blank forms by mail, contact the Missouri Department of Health and Senior Services, Bureau of Vital Records, P.O. Box 570, Jefferson City, MO 65102-0570.
- F. **Filing Fees.** Filing fees must be paid when the petition is filed. The single exception to this requirement is for adoptions in which the Missouri Children's Division has custody of the child. In such instances, prepayment of fees may be waived if petitioner(s) files a REQUEST FOR WAIVER OF PREPAYMENT OF FEES. The amount of fees depends upon the type of action being filed and are as follows: Please contact the Office of the Circuit Clerk for the fee schedule.

Scheduling the Hearing Date

Petitioner attorneys should contact the Division where the case is assigned to schedule hearings. When the petition is filed, the pleadings will be reviewed to ensure that all required items and the filing fee are presented. If required items are missing, the pleadings will be returned to the petitioner(s). If all required items are presented, the case will be assigned a cause number and scheduled for a specific hearing date. Most cases will be scheduled for hearing the first available hearing date ninety (90) days after acceptance of the petition, as long as the six-month lawful and actual custody requirement has been met on that date. If custody requirements have not been met, the hearing will be scheduled for the first available date after six months of lawful and actual custody. The one exception is for Recognition of Foreign Adoptions. In these types of cases, the adoption is already completed and the Missouri court process is relatively simple. Therefore, Recognition of Foreign Adoptions will be scheduled on the first available docket sixty (60) days from the date of filing.

The date the case is scheduled for hearing is important because it is expected that the case will be heard on that date. Absent exceptional circumstances beyond petitioner's control, if the case is not heard on the scheduled date, the case will be dismissed without prejudice at petitioner's expense.

Actions Involving the Adoption of Children from a Foreign Country

Missouri law provides for two distinct procedures in the adoption of children from foreign countries. The least complicated of these procedures is the recognition of a foreign adoption pursuant to Section 453.170 RSMo. The other procedure is to readopt the child pursuant to

the procedures contained in Chapter 453 RSMo., which is similar to the procedures for adopting a domestic child.

- A. Recognition of Foreign Adoption. Please refer to Section 453 RSMo. for the specific requirements for the State of Missouri and to the United States Department of Immigration and Naturalization Services (INS) for federal statutes and requirements. You should contact INS to ensure all proper steps are taken to complete the citizenship requirements for the minor child.

- B. Adoption of a child from a foreign country. Please refer to Section 453.080 RSMo. and United States Department of Immigration and Naturalization Services (INS) for statutes and requirements. As with domestic adoptions, the requirements of Section 453.080 RSMo. should be asserted on the petition and proven during the adoption finalization hearing. Additionally, all other applicable Chapter 453 requirements need to be complied with.

Frequently Asked Questions

A. ***What constitutes “Lawful and Actual Custody”?***

Section 453.080 RSMo. requires that the Court find that the person to be adopted has been in the “lawful and actual custody of the petitioner(s) for a period of at least six months prior to entry of the adoption decree.” This Court interprets “lawful custody” to mean custody obtained over an adoptee gained through compliance with the law. In many cases “lawful custody” will require a court order transferring custody to the petitioner(s) (Section 453.110 RSMo.). One exception to this requirement is in the situation where “lawful custody” has been transferred by court order to a licensed agency, and that agency has then subsequently placed the child with the petitioner(s). This placement by the child-placing agency would not require another court order to constitute “lawful custody” by the petitioner(s). However, in this circumstance the agency must have retained the right to supervise the care and resume custody of the child. “Actual custody” means the actual physical presence of the adoptee in the petitioner’s home for six continuous and uninterrupted months immediately prior to the entry of the adoption decree.

B. ***When can I file an adult adoption?***

Any time the person to be adopted is eighteen (18) years of age or older and is not incapacitated or incompetent to act on their own behalf, an adult adoption can be filed. Adult adoptions require a reduced filing fee compared to the cost of a stepparent adoption, do not require the appointment of a Guardian ad Litem, and the only required consent is that of the person to be adopted. Thus, adult adoption actions tend to be less expensive and less complicated than other types of adoption actions.

C. ***What is a putative father and when should a Missouri putative father registry search be conducted?***

Putative fathers are alleged biological fathers of children born out of wedlock. A request for a search of the putative father registry must be completed if the child was born out of

wedlock and/or the father's name does not appear on the child's birth certificate, or if there has not been a declaration of paternity by a court of competent jurisdiction. You can obtain the form to request a search of the putative father registry from the Missouri Department of Health's website.

D. *What is the process for getting a new birth certificate issued after adoption finalization?*

The attorney for the petitioner(s) completes a Missouri Certificate of Decree of Adoption and files the certificate with the Court. After adoption finalization, the Circuit Clerk's Office will forward the certificate to the Missouri Department of Health, Bureau of Vital Records, which will issue a new birth certificate or forward the form to the appropriate state.

E. *Who needs to be served in an adoption action?*

Service needs to be obtained on all of the following:

1. Birth parent(s), if there has not been a prior termination of parental rights;
2. Any putative fathers identified by the mother, if there has not been a prior termination of parental rights;
3. Legal father (i.e. husband of birth mother at time of conception), if there has not been a prior termination of parental rights;
4. Presumed father (i.e. any man filing with the putative father registry), if there has not been a prior termination of parental rights;
5. Anyone who has filed a Uniform Parentage Act action or has been adjudicated the father, if there has not been a prior termination of parental rights; and
6. A legal guardian or legal custodian unless that party has consented to the adoption in writing.

F. *Under what circumstances does a petitioner(s) need to notify a party by publication? What forms are needed to accomplish publication? When should publication occur? Can notice for multiple adoptees in an adoption action be accomplished with the same publication?*

Section 453.060 RSMo. outlines which parties need to be served and what items they need to be served with. Paragraph 3 of the section provides for service of summons by mail or publication as provided in Section 506.160 RSMo. when personal service cannot be accomplished per Section 506.150 RSMo. The Circuit Clerk's Office has the forms needed for publication, i.e. Application for Order of Publication and Notice of Publication available on the website. Notice by publication can be accomplished for multiple adoptees with the same publication and for multiple parties to be served.

G. *Do I have to use the consent form provided by the Circuit Clerk's Office or can I prepare my own?*

The consent forms required are promulgated by the Missouri Children's Division and are the forms which must be used in this Court. Those forms can be obtained from the Children's Division Website. The form recommended by the Family Court of St. Louis County is the General Consent to Termination of Parental Rights and Consent to Adoption. The form number is CD-48.

The Family Court of St. Louis County has created an alternate consent form specifically for co-parent/step-parent adoptions. For those types of cases only, this alternate version of the consent form can be used. The form is available on the Circuit Clerk's website.

H. *What is the proper procedure for issuing a summons needed in an adoption action?*

Once it is determined that a summons is required in an action, the party requesting the summons *must file a specific request for summons with the Circuit Clerk's Office*, identifying who is to be served and where that person can be found. Personnel in the Circuit Clerk's Office will prepare the summons and return it to the petitioner(s) to present to the sheriff or special process server for service. When service has been accomplished, the petitioner(s) should ensure that the return of service is filed with the Circuit Clerk's Office so that it can be entered into the legal file.

I. *Are Guardian ad Litem (GAL) fees included as part of the filing fees? What are the fees?*

GAL fees are included as part of the filing fees and under normal circumstances the petitioner(s) will not be taxed additional Guardian ad Litem fees. The normal fees for the GAL range from a high of \$400.00 for a two (2) count adoption to a minimum of \$200.00 for other one (1) count petitions.

J. *Does a copy of the Putative Father Registry search request need to be filed with the Court?*

No, the request does not need to be filed; only the response needs to be filed. The response is sufficient to establish that a search of the registry was made and the results of that search.

K. *When more than one child is to be adopted at the same time by the same petitioner(s), can one petition be filed covering these actions?*

Yes, there is nothing to prevent the inclusion of more than one child to be adopted during a proceeding on the same petition for adoption.

L. *What are the jurisdictional requirements for filing an adoption action in St. Louis County?*

Section 453.010 RSMo. outlines the requirements of where the petition for adoption can be filed. The petition can be filed in St. Louis County if:

1. Another court does not have prior and continuing jurisdiction over the juvenile per Chapter 211 RSMo., and:
 - a. The person seeking to adopt resides in St. Louis County;
 - b. The child sought to be adopted was born in St. Louis County;
 - c. The child is located in St. Louis County at the time of the filing of the petition;or
 - d. Either birth parent resides in St. Louis County; or

2. The St. Louis County Family Court has prior and continuing jurisdiction under Chapter 211 RSMo.

M. *What is the Interstate Compact on the Placement of Children and when does it apply to adoption actions?*

The Interstate Compact on the Placement of Children (ICPC) is a uniform act that has been enacted into state law in Missouri and can be found in Section 210.620 RSMo. Please refer to Section 453.080 for ICPC requirements.

N. *When will a Guardian ad Litem (GAL) be appointed?*

Normally the Guardian ad Litem is appointed about two to three weeks after the petition is filed. Currently, this Court is appointing two GALs to represent all of the children to be adopted for a given adoption hearing date. Once the number of cases that can be heard on a particular date is reached, notices of appointment are sent to the GALs.

O. *Is there a requirement that the child being adopted attend the adoption finalization hearing?*

Neither Missouri law nor this Court requires a child being adopted to be present at the adoption finalization hearing. Many adopting parents feel that the finalization hearing is an important family event that should be celebrated by the family as a unit. This Court recognizes the importance of the hearing and strongly encourages the child(ren) be present at the hearing.

P. *Who prepares the court orders?*

Other than adult adoptions, the proposed orders are prepared by the Guardian ad Litem. The petitioner's attorney is responsible for proposed orders in adult adoption proceedings.