

11. Affidavits in Support of Adoption

There are three common areas where a caseworker is responsible for preparing and signing an affidavit in support of an adoption petition:

- Deceased parent (for legal parent or “Stanley” type putative father).
- Presumed legal father.
- Putative father (for “Pagan” type putative father).

In each instance, the purpose of the affidavit in support of an adoption petition is to inform the court granting the adoption, why there is neither a voluntary relinquishment nor a termination order on one of the parents or the presumed legal father.

Preparing a caseworker affidavit in support of an adoption

Procedure

- Prepare an affidavit in support of adoption at the following points in the process:
 1. Putative father: As soon as the child’s adoptive home has been designated by the Adoption Services Unit (includes legal risk placement) and the Center for Health Statistics has returned the vital statistics letter to DHS;
 2. Presumed legal father: Anytime after adoption becomes the plan
 - a. An order/judgment of non-paternity is needed for most cases involving a presumed legal father.
 - b. There are rare cases, approved for TPR prior to current changes in the law, which may still be appropriate for an affidavit. Check with the legal assistance specialist prior to submitting such an affidavit to determine whether this will be an adequate way to deal with the father’s rights. An affidavit regarding a presumed legal father is not needed in the following circumstances:
 - He relinquishes his rights as legal father.
 - If there is a judgment of non-paternity. – OR –
 - If there is a valid judgment of paternity entered as to the biological father of the child.
 3. Deceased parent: Anytime after adoption becomes the plan.

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- When preparing the affidavit, follow the directions in Appendix 5.36, Instructions for Preparing Deceased Parent, Presumed Legal Father, and Putative Father Affidavits, and Appendix 5.37, Preparing a Putative Father Affidavit.
- Use the sample affidavits found in the Appendix 5.38. Write the affidavit so it reflects the specifics of the particular case.
- Attach the following supporting documents to the affidavit:
 1. Putative father:
 - a. The child's birth certificate.
 - b. CF 418, Father's Questionnaire.
 - c. Release and surrender document or termination of parental rights order for the other parent, if applicable.
 - d. Vital Statistics letter (see below for more detail).
 - e. Letters to the putative father, if applicable.
 2. Presumed legal father:
 - a. The child's birth certificate.
 - b. CF 418; Father's Questionnaire.
 - c. Presumed legal father's affidavit signed by the presumed legal father (if available).
 3. Deceased parent:
 - a. The child's birth certificate.
 - b. The parent's death certificate.
- Contact the assigned legal assistance specialist if there are questions or unique situations regarding supporting documentation for an affidavit.
- Attach the original supporting documents (exhibits) to the first affidavit and copies of the original documents to the second and third affidavits. In some instances, original supporting documentation will have already been sent to the Adoption Services Unit. In this case, provide copies of the supporting documentation.
- Include two original copies of the affidavit with supporting documentation to the Adoption Services Unit as part of the adoption finalization packet. Place the third original in the legal section of the child's case record.

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- The affidavit must be completed within the following timelines:
 1. Putative father: The affidavit is necessary for finalization.
 2. Presumed legal father: The affidavit is needed before the child can be declared legally freed for adoption and before the placement can be designated as a legally free adoptive placement.
 3. Deceased parent: The affidavit is necessary for finalization.
- The legal assistance specialist reviews the affidavit for accuracy and completeness and contacts the caseworker if corrections are needed. The caseworker's affidavit with supporting documentation becomes part of the consent packet that the Adoption Services Unit sends to the attorney who will prepare the petition to adopt.

Preparing an affidavit for a putative father or presumed legal father's signature

In some cases the caseworker can consider taking an affidavit from a putative father or presumed legal father to support an adoptive placement. An affidavit from a putative father or a presumed legal father could be obtained at any point in the case life. This affidavit can be used as an exhibit to the caseworker's affidavit or as evidence if there is a court challenge to paternity.

Procedure

- Consult with the legal assistance specialist to determine if an affidavit from a putative father or presumed legal father is appropriate to support an adoptive placement.
- Prepare an affidavit for each child if the parent is willing to sign an affidavit. Follow the directions in Appendix 5.36, and the sample affidavits in appendices 5.39 and 5.40.
- Once the affidavit is prepared and approved, bring the parent before a Notary Public to sign three copies of the affidavit.
- Use this affidavit as an exhibit to the caseworker's affidavit in support of an adoption.

Vital statistics letter (Center for Health Statistics)

When completing the caseworker's putative father affidavit in support of adoption, verify that no one has filed notice of a filiation (paternity) proceeding on or before the date the Adoption Services Unit designates the adoptive placement or designates a legal risk adoptive placement.

- To obtain this verification, send a letter to the Oregon Center for Health Statistics. A sample of this letter can be found in Appendix 5.41.

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1. The letter should not be requested until the branch receives notification from Central Office that the placement has been designated as the legal risk adoptive placement or designated the adoptive placement.
 2. This letter is sent on pink paper with the branch letterhead.
 3. The caseworker includes the registration number from the child's birth certificate for identification purposes.
- File a copy of the response from the Oregon Center for Health Statistics in the legal section of the case record and attach the original copy to the affidavit in support of adoption that is sent to the Adoption Services Unit.

The Supervisor's Role

- Provide guidance to the caseworker in preparing the affidavit and consider an affidavit for the putative or presumed legal father to sign.
- Review any affidavit before it is sent into the Adoption Services Unit.
- Periodically review the caseworker's work to be certain that an adoption case is progressing in a timely manner toward finalization.

Forms and References

Oregon Revised Statutes

- 109.096, Notice to Putative Father When Paternity Not Established
- 109.326, Consent When Husband Not Father

Child Welfare Policy

- I-A.4.3, Identifying Legally Recognized Parental Relationships
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-a43.pdf