



TERMINATION OF PARENTAL RIGHTS

FAMILY COURT OF THE STATE OF DELAWARE

<https://courts.delaware.gov/family>

Family Court Contact Information

New Castle County

Leonard L Williams
Justice Center
500 N. King Street
Wilmington, DE 19801
302-255-0300

Kent County

Family Courthouse
400 Court Street
Dover, DE 19901
302-672-1000

Sussex County

Family Courthouse
22 The Circle
Georgetown, DE 19947
302-855-7400

**All Family Court
Forms, FAQs, Filing
Instruction Packets,
and additional
information can be
found on the Family
Court Website at:**

<https://courts.delaware.gov/family>

What is the Definition of Termination of Parental Rights?

The intent of Termination of Parental Rights (“TPR”) is to legally and permanently terminate the relationship between a child and his or her parent(s). The law about TPR is found within Chapter 11 of Title 13 of the Delaware Code.

What Happens After Parental Rights are Terminated?

After the Court issues a TPR Order, parental rights are usually then transferred to another person through an Adoption Order. The prospective adoptive parent must file a Petition for Adoption. Once an Adoption Order is issued, the adoptive parent then becomes the permanent legal parent of the child and will have all of the rights, duties, privileges and obligations recognized by the law between parents and their children. The law about adoption is found within Chapter 9 of Title 13 of the Delaware Code.

***Please note! Because parental rights are transferred to another person through an Adoption Order, it is recommended that the prospective adoptive parent file a Petition for Adoption at the same time as the Petition for Termination of Parental Rights.**

What is the Effect of Losing One’s Parental Rights?

Both the individual whose parental rights were terminated and that individual’s relatives lose all rights of inheritance from the child. Accordingly, the child will no longer have rights of inheritance from the individual whose rights were terminated or from that individual’s relatives. If the individual whose parental rights were terminated still wants the child to inherit from him or her, then he or she must include the child in his or her will.

Who Can Ask the Family Court for a TPR (i.e. who can Petition for TPR)?

A Petition for TPR may be filed in the State of Delaware by any of the following:

- 1) The mother of a child;
- 2) The father or presumed father of a child;

(Please note! One parent does not usually file to terminate his or her rights only. It is highly unlikely that the Court would terminate one parent’s rights if there was not a prospective adoptive parent in place. This is true even if one parent is being denied visitation and wishes to terminate his or her rights to cease child support payments.)

- 3) Both parents of a child;
- 4) A blood relative of a child;
- 5) The Department of Services for Children, Youth and Their Families (the “Department”);
- 6) Any agency granted a license by the Department to place children for adoption (a “licensed agency”);
- 7) A guardian or permanent guardian.

Who can seek to Adopt (i.e. who can Petition the Court for Adoption)

A Petition for Adoption may be filed in the State of Delaware **IF** you are:

- Over 21 years old; AND
- A Delaware resident or a person with whom a child has been placed for adoption under Section 904 of Title 13; AND
 - An unmarried person; OR
 - A divorced or legally separated person petitioning individually; OR
 - A married couple jointly seeking to adopt who are NOT legally separated or living apart from each other; OR
 - A non-married couple petitioning jointly, provided that they are cohabiting.

What does cohabiting mean?

Cohabiting means that a person regularly resides with an adult of the same or opposite sex, and they hold themselves out as a couple.

What is the Termination of Parental Rights Process?

- 1) The Petitioner files a Petition to Terminate Parental rights.
- 2) The Respondent has 20 days in which to file an Answer to that Petition.
- 3) A social study and report must be completed (Please see below for more information).
- 4) A Judge will hold a hearing, taking into consideration whether the parents agree to the termination.
- 5) The Judge will issue an order either granting or denying the Termination of Parental Rights.

What are the Grounds for Termination of Parental Rights?

When alleging facts in a Petition for Termination of Parental Rights, the Petitioner must indicate at least one Ground for Termination of Parental Rights for each child. The grounds can be found on the last three pages of the Petition for Termination of Parental Rights (Form 112) or in Chapter 11 of Title 13 of the Delaware Code.

What is a Social Study and Report?

A Social Study and Report provides detailed information about the Petitioner and the child, which will help the Court determine whether parental rights should be transferred to the Petitioner. A worker from a child placement agency will talk to all of the people involved with the case including the Petitioner, the child's parents, and the child. The worker will then write a report and submit it to the Court. The report will include information about the following: The child and the child's background; The Petitioner and the home where the child will be living; The child's physical and mental condition; The suitability of the placement; Whether all of the requirements under Delaware law have been met; AND The agency's recommendation regarding whether the termination of parental rights should be granted.

***Please note! A Social Study and Report can be very expensive and it is the Petitioner's duty to pay for the study. Please contact a child-placement agency for costs.**

Where can I find a Child Placement Agency?

A list of agencies is provided on the Family Court Website at this link:

<https://courts.delaware.gov/Forms/Download.aspx?id=105998>.

What if I do not know where the Respondent is currently living?

If the location of either or both Respondents is unknown, the Court will publish AT PETITIONER'S EXPENSE, a legal notice of the petition in 1 or more approved newspapers for 3 consecutive weeks in the county and state where either or both Respondent's last known address was located. **Please note that this process can be very expensive.**

How can I file my petition and related paperwork?

Petitions and papers may be filed at or mailed to the Family Court in each county. Family Court also now accepts petitions and papers by email. To file your petition by email, you must send the petition and all required forms to: FC_CDN_TPR_Adoption@delaware.gov

Please see the below list for the forms that must be filed with your petition. Family Court will serve the other parties your petition.

You may also use FC_CDN_TPR_Adoption@delaware.gov to file with the Court answers, motions, and any other required papers. Although you can file these documents with the Court by email, you must still serve copies of these documents on the other parties personally or by mail.

****Before filing by email, please review the Civil Filing by Email FAQ:** <https://courts.delaware.gov/family/faqs>

Required Forms:

- [Petition for Termination of Parental Rights](#) (Form 112)
- [Custody Separate Statement](#) (Form 346)
- [Information Sheet](#) (Form 240)
- [Preaice in a Termination of Parental Rights Action](#) (Form 115)
- [Order of Reference for Termination of Parental Rights](#) (Form 110T)
- [Order of Hearing](#) (Form 118A)
- [Final Order for Termination of Parental Rights](#) (Form 107)

Situational Forms (Please review all forms and scenarios)

- [Affidavit of Unknown Address](#) (Form 241)
This form should be filed if you do not know where the Respondent(s) live
- [Affidavit of Non-Military Service](#) (Form 405)
This form should be filed if you know that the Respondent is NOT in the military service of the United States of America and ONLY if the Respondent has not filed an answer or otherwise entered an appearance with the Court by the day of your hearing
- [Consent to Terminate and Transfer Parental Rights](#) (Form 140)
File this document only if you and the Respondent(s) have already agreed upon the termination and transfer of parental rights to another person for purposes of adoption
- [Waiver of Rights under the Servicemembers' Civil Relief Act](#) (Form 420)
 - File this form only if the Respondent is in the military
 - If the Respondent does not file an Answer or Affidavit of Appearance, you must have the Respondent(s) sign the form
 - If you are unable to reach the Respondent to obtain any of these documents, you must file a Motion to Appoint and Attorney ([see Motion Packet](#))

For more information about Termination of Parental Rights, please see the Termination of Parental Rights Instruction Packet and "Frequently Asked Questions about Termination of Parental Rights". Both are available in the Self-Help/Resource Centers and online at <https://courts.delaware.gov/family>.