

Child and Family Services Policy Manual: Adoption Adoption Decree

Requirements	<p>A decree of adoption must state:</p> <ul style="list-style-type: none">• the original name of the child;• the name(s) of the petitioner(s) for adoption;• whether the petitioner is married or unmarried;• whether the petitioner is a stepparent of the child;• the name by which the child is to be known;• for a child born in Montana, a direction to the vital statistics bureau to issue a new birth certificate unless the adoptee is 12 years of age or older and requests that a new certificate not be issued;• the child's date and place of birth, if known;• the effect of the decree of adoption as stated in Mont. Code Ann. §42-5-202;• that the adoption is in the best interests of the child; and• whether either birth parent objects to the release of the original birth certificate information upon the adoptee reaching 18 years of age.
Communication to Department	<p>Within 30 days after a decree of adoption becomes final, the clerk of court shall send a report of the adoption to the Department, and if requested by petitioners, the court shall order the vital statistics bureau to issue a new birth certificate for the child.</p>
Effect of Decree	<p>After the decree of adoption is entered, the relationship of parent and child and all the rights, duties, and other legal consequences of the relationship of parent and child exist between the adoptee and the adoptive parent(s) and the kindred of the adoptive parent(s). The former parents and the kindred of the former parents of the adoptee (unless they are the adoptive parent(s) or the spouse of an adoptive parent) are relieved of all parental responsibilities for the adoptee and have no rights over the adoptee except for a former parent's duty to pay arrearage for child support. A decree of adoption must include a notice to the vital statistics bureau if it is known that either birth parent objects to release of the information on the original birth certificate upon the adoptee reaching the age of 18.</p>
Finality of Decree	<p>For purposes of appeal, the decree of adoption is a final order when it is issued. A person may appeal from the order in the manner and form provided for appeals from a judgment in civil actions. An appeal must be heard expeditiously pursuant to the</p>

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provisions of Mont. Code Ann. §42-2-618. A decree of adoption does not affect any right or benefit vested in the adoptee before the decree became final (e.g., social security, death benefits, private trust fund).

After the entry of a final decree of adoption of an Indian child in any state court, the parent(s) may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate the decree. Upon a finding that the consent was obtained through fraud or duress, the court shall vacate the decree and return the child to the parent(s). An adoption which has been effective for at least two years cannot be invalidated by this process.

Visitation and Communication Agreements

A decree of adoption terminates any existing order or written or oral agreement for contact or communication between the adoptee and the birth parent(s) or family.

Any express written agreement entered into between the placing parent(s) and the prospective adoptive parent(s) after the execution of a relinquishment and consent to adoption is independent of the adoption proceedings, and any relinquishment or consent to adopt remains valid whether or not the agreement for contact or communication is later performed. Failure to perform an agreement is not grounds for setting aside an adoption decree.

Confidentiality of Records and Proceedings

Unless the court orders otherwise, all hearings held in adoption proceedings are confidential and must be held in closed court without admittance of any person other than the interested parties and their counsel.

All papers and records pertaining to the adoption must be kept as a permanent record of the court and must be withheld from inspection. A person may not have access to the records, except:

- for good cause shown on order of the judge of the court in which the decree of adoption was entered;
- as provided in Mont. Code Ann. § § 50-15-121 and 122 (pertaining to release of vital statistics records); or
- the Department's Child Support Enforcement Division.

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All files and records pertaining to adoption proceedings retained by the Department, a licensed child placing agency, a lawyer, or any authorized agency are confidential and must be withheld from inspection, except as provided above.

Field Files

When an adoption is finalized, the case record becomes an adoption record. Prior to finalization the case record is a CPS record.

After an adoption is finalized, the field file (case record) must be sent to the Adoption Program Officer in central office for permanent storage as required by law. Each box of files must be accompanied by a completed CFS 382 Receipt for Delivery form. (See p. 4 of this section. Also available in Outlook forms folder.)

Disclosure of Records

The adoption specialist in the division's central office should be contacted regarding disclosure of information from adoption records. The specialist may disclose:

- non-identifying information to an adoptee, an adoptive or birth parent, or an extended family member of an adoptee or birth parent; and
- identifying information to a court-appointed Confidential Intermediary upon order of the court or as provided in Mont. Code Ann. §§ 50-15-121 and 122.
- identifying information limited to the specific information required to assist an adoptee to become enrolled in or a member of an Indian tribe.

Confidential information may be disclosed to any person who consents in writing to the release of confidential information to other interested persons who have also consented. Identifying information pertaining to an adoption involving an adoptee who is still a child may not be disclosed based on a consensual exchange of information unless the adoptee's adoptive parent(s) consents in writing.

References

Mont. Code Ann. § §42-5-109 and 42-6-101 and 102
 Mont. Admin. R. 37.52.120 and 37.52.125
 PL 95-608, Indian Child Welfare Act, Title 1 Sec 103(d)

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RECEIPT FOR DELIVERY OF FILES TO CENTRAL OFFICE

Date: _____

Box: _____ of _____

Sent to Helena by: _____

Received in Helena
by: _____

Copy of Receipt sent back to County Office
on: _____

FILE TYPE:

- Program Bureau
- Adoption
- Aged Out of Care

NAMES/NUMBERS	GIVE TO
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1. KEEP A COPY OF THIS COMPLETED FORM FOR YOUR RECORDS
2. SEND A HARD COPY OF THIS FORM WITH EACH BOX OF RECORDS TO HELENA
3. DO NOT MIX DIFFERENT FILE TYPES IN BOXES