

Finalizing an Adoption Checklist (Preliminary Matters)

In order to adopt a child or an adult, the adoptive parent must properly file a petition for adoption with the court.¹ [MCL 710.24\(1\)](#). Once the adoption order is entered, “there is no distinction between the rights and duties of natural progeny and adopted persons[.]” [MCL 710.60\(2\)](#).

If an adoptive parent is seeking adoption subsidies, the certification for a support subsidy must be made and both the adoptive parent and the DHHS must have signed an adoption assistance agreement before the adoption is finalized. [MCL 400.115g\(1\)\(c\)](#).

To make sure all the preliminary steps have been followed, the court should inquire whether:

- An adoption petition was filed that verified the following:
 - Each petitioner’s name, date of birth, and place of residence (including the adoptive mother’s name).
 - The adoptee’s name, date and place of birth, and place of residence (unless the information is not being exchanged).
 - Petitioner’s and adoptee’s relationship (if any).
 - The adoptee’s full name after the adoption.
 - The adoptee’s property description (if any).
 - The biological parents’ names and addresses (unless their parental rights have already been terminated or the information is not being exchanged).
 - The guardian’s name and address, if one has been appointed (unless the information is not being exchanged). [MCL 710.24\(4\)\(a\)-\(g\)](#).
- Adoptive parent filed adoption petition where venue is proper.
- All interested parties have been notified of the hearing. See [MCL 710.24a\(1\)](#).

¹ For a detailed discussion on finalizing an adoption, see the Michigan Judicial Institute’s [Adoption Proceedings Benchbook](#), Chapter 6.

- The child is not an Indian child as defined in [MCR 3.002\(12\)](#),² OR the child is or the court has reason to believe the child is an Indian child, and
 - the court has jurisdiction. See [25 USC 1911\(b\)](#); [MCL 712B.7\(3\)](#).
 - the child's Indian Tribe³ has been notified of the proceedings.⁴ See [MCR 3.807\(B\)\(2\)](#).
 - the placement preferences under [MCL 712B.23\(2\)](#)⁵ have been followed or find on the record or in writing that good cause to the contrary has been shown.⁶ [25 USC 1915\(a\)-\(b\)](#); [MCL 712B.23](#); [25 CFR 23.129\(c\)](#); [25 CFR 23.132\(c\)](#).

Note: [25 USC 1915\(c\)](#) and [25 CFR 23.129\(b\)](#) require the court to give weight to a consenting parent's desire for anonymity when applying placement preferences.

- the parent has NOT filed a written demand requesting return of the Indian child. See [MCL 712B.13\(3\)](#); [MCR 3.804\(C\)](#).
- The person formally placing the child for adoption has authority to do so. See [MCL 710.55\(1\)](#), which permits the biological parent or guardian with legal and physical custody, a court with legal and physical custody of a child under the Juvenile Code, and a child placing agency or the DHHS with legal and physical custody of a child pursuant to a release of parental rights under the Juvenile Code.
- The adoptee consented, if 14 years of age or older. [MCL 710.43](#).
- The following documentation has been filed with the court:

² *Indian child* means "any unmarried person who is under age 18 and is either (a) a member of an Indian tribe, or (b) is eligible for membership in an Indian tribe as determined by that Indian tribe." [MCR 3.002\(12\)](#).

³ "*Indian child's tribe* means: (1) [t]he Indian tribe in which an Indian child is a member or eligible for membership; or (2) [i]n the case of an Indian child who is a member of or eligible for membership in more than one Tribe, the Indian Tribe described in [[25 CFR 23.109](#)]." [25 CFR 23.2](#). See also [MCL 712B.3\(j\)](#) and [MCR 3.002\(13\)](#), which contain substantially similar language except that where an Indian child is a member of or eligible for membership in more than one tribe, it defines the *Indian child's tribe* to be the "Indian tribe with which the child has the *most* significant contacts[.]" [25 USC 1903\(5\)](#), which also contains substantially similar language except that where an Indian child is a member of or eligible for membership in more than one tribe, it defines the *Indian child's tribe* to be the "Indian tribe with which the Indian child has the *more* significant contacts[.]" (Emphasis added).

⁴ Copies of the notice must also be sent to the appropriate Regional Director, which for Michigan is the Midwest Regional Director. [25 CFR 23.11\(a\)](#); [25 CFR 23.11\(b\)\(2\)](#).

- A copy of each release or parental termination order (unless the parents consented to the adoption).
- A copy of the commitment order (if the child was committed to a child placing agency or the DHHS).
- Proof of guardian's appointment and his/her authorization to execute a release or consent to the child's adoption (if guardian is consenting/releasing).
- A copy of the consent to the child's adoption. [MCL 710.26\(1\)\(d\)](#).
- A copy of the adoptee's birth certificate, verification of birth, hospital registration, or other satisfactory proof of the adoptee's date and place of birth, unless waived.
- Any investigative reports.
- An affidavit verifying any allegations on the petition that a parent failed to support and communicate with his/her child.
- Any additional facts the court considers necessary. [MCL 710.26\(1\)\(a\)-\(h\)](#).
- A verified statement and a verified accounting statement. See [MCL 710.44\(5\)](#), [MCL 710.44\(8\)\(c\)](#); [MCL 710.29\(6\)\(c\)](#); [MCL 710.54\(1\)\(c\)](#).
- In a direct placement adoption, a verified statement certifying that the petitioner was informed of the availability of counseling and has or has not received counseling. [MCL 710.24\(5\)](#).
- The compilation of identifying and nonidentifying information has been made, and
 - the prospective adoptive parent received the nonidentifying information. See [MCL 710.27\(1\)](#).

⁵ "Absent good cause to the contrary, the adoptive placement of an Indian child must be in the following order of preference: (a) A member of the child's extended family[;] (b) A member of the Indian child's tribe[;] (c) An Indian family." [MCL 712B.23\(2\)](#). "The court must, where appropriate, also consider the placement preference of the Indian child or the Indian child's parent." [25 CFR 23.130\(c\)](#). "This language does not require a court to follow a child's or parent's preference, but rather requires that it be considered where appropriate." Bureau of Indian Affairs, *Guidelines for Implementing the Indian Child Welfare Act*, 81 Federal Register 96476, H.1 (2016). "[A] preferred placement may not be excluded from consideration merely because the placement is not located in the State where the proceeding is occurring." *Guidelines for Implementing the Indian Child Welfare Act, supra* at H.3.

⁶ See [MCL 712B.23\(5\)](#) and [25 CFR 23.132\(c\)](#) for conditions a court *should* consider when determining whether good cause exists to deviate from the order of preference, and [MCL 712B.23\(4\)](#), [25 CFR 23.132\(d\)](#), and [25 CFR 23.132\(e\)](#) for conditions the court may *not* consider for deviation purposes.

- the parent/guardian and the prospective adoptive parent:
 - exchanged identifying information; OR
 - agreed to meet in person; OR
 - are not exchanging identifying information and a Statement of Identifying Information form was filed with the court. See [MCL 710.27\(1\)](#), [MCL 710.27\(3\)](#), [MCL 710.27\(7\)](#).
- this is a stepparent or relative adoption and the compilation of identifying and nonidentifying information does not apply. See [MCL 710.27\(6\)](#).
- An order terminating parental rights was entered:⁷
 - For both parents; OR
 - The sole surviving parent (if one parent is deceased); OR
 - The noncustodial parent (if stepparent adoption) [MCL 710.51](#).
- That the child's formal placement with the adoptive parent underwent supervision at reasonable intervals for:
 - six months if the child was 1 year of age or older at the time the adoption petition was filed; OR
 - more than six months if the child was 1 year of age or older at the time the adoption petition was filed and the court found the extension of time in the child's best interests; OR
 - less than six months if the child was 1 year of age or older at the time the adoption petition was filed and the court found the waiver of time in the child's best interests; OR
 - three months if the child was less than 1 year of age at the time the adoption petition was filed. See [MCL 710.52](#); [MCL 710.56\(1\)](#).

Hold a petition hearing.

Note: An adoption petition CANNOT be granted before the rehearing and appeal periods have expired. See [MCL 710.41\(2\)](#).

⁷ Before formal placement can occur, the court must enter an order terminating the rights of the person or entity consenting to the adoption. [MCL 710.51\(1\)](#).

For court forms related to adoption proceedings, see the One Court of Justice [website](#).

