

Adoptions

§1. Citation

This Title may be cited as the “Delaware Tribe of Indians Adoption Act.”

§100. Purpose of Adoptions

The purpose of an adoption is to establish a formal and legal family relationship between two or more persons which after adoption, shall exist as if the parties were born into the relationship by blood. Adoptions pursuant to this Title shall be so recognized by every agency and level of the Government except in eligibility for enrollment determinations which shall continue to be based upon biological parentage.

§101. Definitions

Unless the context otherwise requires, as used in this Title, the term:

- (a) “Adult” means an individual who has attained the age of eighteen (18) years or an emancipated minor.
- (b) “Brother” means:
 - (1) Any male sibling; or
 - (2) Any other male person, who, by virtue of an adoption either of themselves or of a member of their family pursuant to laws of any Indian Tribe or state would hold the relationship of a sibling with the person in question.
- (c) “Child” means any person who has not attained the age of eighteen (18) years of age.
- (d) “Contested proceeding” means any proceeding in which an interested party enters an appearance to contest the petition.
- (e) “Department” means the Delaware Indian Child Welfare Department.
- (f) “Grandparent” means:
 - (1) A biological grandparent;
 - (2) The brothers and sisters of a biological grandparent, and their spouses; or
 - (3) Any other person, who, by virtue of an adoption either of themselves or a member of their family pursuant to the laws of any Indian Tribe or state, would come within the terms of subparagraphs (1) or (2) of this subsection.

- (g) “Guardian” means an individual other than a parent, appointed by a Court to be the guardian of the person of a minor.
- (h) “Juvenile Court” or “Court” means the Juvenile Division of the Delaware Tribe of Indians District Court or the Juvenile Court or C.F.R. Court established for other Indian Tribes or a state Juvenile Court as is appropriate from the context.
- (i) “Parent” means an individual who is the biological or adoptive parent of a child or who is legally recognized as a mother or father of a child. The term “parent” does not include an individual whose parental relationship to a child has been terminated.
- (j) “Permanent relinquishment” means the voluntary surrender of the rights of the parent or guardian with respect to a minor, including legal and physical custody of the minor to the Indian Child Welfare Department or any person with the assent of the Court, by a minor’s parent or guardian, for purposes of the minor’s adoption.
- (k) “Stepparent” means an individual who is the spouse or surviving spouse of a parent of a minor, but who is not a legal parent of the minor.
- (l) “Sister” means
 - (1) Any female sibling; or
 - (2) Any other female person, who, by virtue of an adoption either of themselves or of a member of their family pursuant to laws of any Indian Tribe or state would hold the relationship of a sibling with the person in question.
- (m) “Termination of parental rights” or “termination of the parent-child legal relationship” means the permanent elimination by Court order of all parental rights and duties.
- (n) “Traditional custodian” means those relatives of the child other than the parent, who, by force of the traditions, customs and common law of the Tribe have the rights, duties, and responsibilities of assisting the parents in rearing the child and providing for its support.

§102. Jurisdiction Over Adoptions

- (a) The Juvenile Division of the District Court shall have exclusive jurisdiction regarding the adoption of any person who resides or is domiciled within the jurisdiction of the Court, is unmarried, less than eighteen (18) years of age unless special circumstances exist, and either:
 - (1) A member of an Indian Tribe;

- (2) Is eligible for membership in an Indian tribe, and is the biological child of a member of an Indian tribe; or
 - (3) Whose case has been transferred to the Juvenile Division of the District Court from the courts of a state or a Tribe which has assumed jurisdiction over said child; or
 - (4) The adoption of any adult Indian who resides or is domiciled within the jurisdiction of the Court.
- (b) The Juvenile Division of the District Court shall have concurrent jurisdiction with the courts of any other sovereign having lawful authority regarding the adoption by or of any other child or adult who is:
- (1) A bonafide resident of or domiciled within the jurisdiction of the Court; or
 - (2) Between two adults who submit to the jurisdiction of the Court regardless of residence or domicile; or
 - (3) A Delaware tribal member.

§103. Foreign Decree

When the relationship of parent and child has been created by a decree of adoption by any Court of competent jurisdiction of any other nation, or its political subdivisions having the authority to enter such decrees, the rights and obligations of the parties as to matters within the jurisdiction of this Tribe shall be determined by §138 of this Chapter.

§104. Types of Adoptions

There shall be three types of adoptions recognized by the Delaware Tribe, namely:

- (a) Statutory adoptions under Tribal law entered into pursuant to Subchapter A of this Chapter.
- (b) Statutory adoptions under the laws of some other Tribe, State, or Nation having jurisdiction over the parties and the subject matter.
- (c) Traditional adoptions, which may be for the purpose of establishing any traditionally allowed family relationship between any persons, and which shall be governed by the Tribal Common Law. Unless otherwise specifically provided by Tribal statute, traditional adoptions create a particular stated family relationship between persons for all purposes other than enrollment and the probate of decedents' estates.

§105. In Camera Determination of Enrollment

Whenever a parent, whether biological or adoptive, has expressed a desire that the name of the parent or the original or adoptive name of the child and the child's relationship to themselves or others remain confidential, and a question arises as to the eligibility of the child for enrollment as a citizen and member of the Tribe, the Court is authorized to receive from any source such information as may be necessary for a determination of the eligibility of such child for enrollment, to review such information in camera, and to enter its order declaring whether or not the child is eligible for enrollment and the child's blood quantum or other necessary non-identifying enrollment eligibility criteria. If the Court determines that such child is eligible for enrollment, it shall enter its order declaring said fact and the Tribal enrollment officers shall accept such order as conclusive proof of the eligibility of the child for enrollment and enroll the child accordingly. If the Court determines that such child is not eligible for enrollment, it shall enter its order accordingly, and the Tribal enrollment officers shall accept such order as proof of the ineligibility of said child and refuse to enroll the child unless other or further qualifications for enrollment are shown.

§§106-109. Reserved

SUBCHAPTER A STATUTORY ADOPTIONS

§110. Eligibility for Statutory Adoption

Every child within the jurisdiction of the Juvenile Division of the District Court at the time a petition for adoption is filed, may be adopted subject to the terms and conditions of this Chapter.

§111. Eligibility to Adopt by Statutory Process

The following persons are eligible to adopt a child pursuant to this Subchapter:

- (a) A husband and wife;
- (b) Either the husband or wife if the other spouse is a parent of the child;
- (c) An unmarried person who is at least twenty-one (21) years old;
- (d) A married person who is legally separated from the other spouse and at least twenty-one (21) years old;
- (e) In the case of a child born out-of-wedlock, its unmarried father; or
- (f) Any other arrangements by the Court by virtue of common customs and traditions of the Delaware Tribe.

§112. Consent to Adoption

- (a) Adoption of a child may be decreed only if consent to such adoption has been executed and filed in the Juvenile Division of the District Court by:
 - (1) Both parents, if living, or the surviving parent, unless their parental rights have been terminated by judicial decree;
 - (2) A parent less than sixteen (16) years of age may give his/her consent only with the written consent of one of his/her parents, guardian, or a guardian ad litem of the minor parent appointed by the Court; or
 - (3) If both parents be deceased, or if their parental rights have been terminated by judicial decree, then the traditional custodian having physical custody of said child for the preceding six (6) month period, or a person or the head of an agency having custody of the child by judicial decree with the specific authority, granted by the Court, to consent to the adoption of the child.
- (b) Where any parent or Indian custodian voluntarily consents to an adoption, or termination of parental rights, such consent shall not be valid unless executed before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The Court shall certify that the parent or Indian custodian either fully understood the explanation in English, or that it was interpreted into a language that the parent or Indian custodian understood.
- (c) Any consent given prior to or within ten (10) days after the birth of a child shall not be valid.
- (d) A consent to adoption may not be withdrawn except by permission of the Court given before the entry of the final decree of adoption. If consent is allowed to be withdrawn at any time prior to the entry of a final decree of adoption or termination as the case maybe, the child shall be returned to the parent.

§113. Written Consent Must State

- (a) A consent to adoption of a minor shall be in writing, recorded by the Court, and executed before a judge of the Tribal Court and must contain:
 - (1) The date, place, and time of the execution of the consent;
 - (2) The name and date of birth of the person executing the consent;
 - (3) The current mailing address, telephone number, and social security number of the person executing the consent; and

- (4) Instructions that the consent is irrevocable, except upon the specific grounds specified in §117, upon which the consent can be revoked and the manner in which a motion to set aside the consent must be filed.
- (b) A consent must state:
 - (1) That the person executing the document is voluntarily and unequivocally consenting to the adoption of the minor;
 - (2) An understanding that after the permanent relinquishment is executed, it is final and, except for fraud or duress, may not be revoked or set aside for any reason except as otherwise authorized in this Chapter;
 - (3) That the person executing the permanent relinquishment is represented by counsel or has waived any right to counsel;
 - (4) That the execution of the permanent relinquishment does not terminate any duty of the person executing the permanent relinquishment to support the minor until the adoption is completed;
 - (5) That the person executing the permanent relinquishment has not received or been promised any money or anything of value for the permanent relinquishment, except for payments authorized by law; and
 - (6) That the person believes the adoption of the minor is in the minor's best interest.

§114. Voluntary Relinquishment

- (a) Any parent, legal custodian, traditional custodian, or other guardian of a child may relinquish, subject to the terms of §§112(b), (c), and (d) of this Subchapter, any rights they may have to the care, custody, and control of a child. A relinquishment shall be made by filing a petition in the Juvenile Division of the Court with notice to the Indian Child Welfare Department, Tribal Prosecutor, traditional custodians, and the parent(s), not a petitioner. The traditional custodians may intervene in said action. The petition may relinquish generally in which case the Court shall assume jurisdiction over the child, or specifically to a particular person for adoption. A relinquishment shall be valid only upon approval and decree of the Court. Relinquishment may be made only to the Indian Child Welfare Department or any other person, with the written consent of the Department or Court.
- (b) Any parent desiring to relinquish his or her parental rights shall first obtain counseling from a tribal or county department of social services.
- (c) If after counseling, the parent still desires to relinquish his parental rights, he/she may petition the Juvenile Court on forms supplied by the Court. Affidavit(s)

verifying that the parent(s) have received counseling, fully understood the implications of the relinquishment and confirming that no undue pressure has been placed on the parent(s) shall be attached to the petition.

- (d) Upon receipt of a petition, the Court shall set the matter for hearing.
- (e) The Court shall not issue an order of relinquishment unless it is satisfied that:
 - (1) The relinquishing parent(s) and the child, if twelve (12) years of age or older, have been counseled pursuant to subsection (b) of this section;
 - (2) The consequences of the relinquishment are fully understood by all parties;
 - (3) Notice has been properly given to all interested parties;
 - (4) The parent requesting relinquishment is not motivated primarily by a desire to avoid obligations of financial support to the child; and
 - (5) It is in the best interest of the child for an order of relinquishment to be entered.
- (f) If the Court is satisfied that all the procedural requirements of this section have been met and that the relinquishment would best serve the interests of all parties concerned, including the child, it shall enter an order of relinquishment.
- (g) If the Court is not satisfied that said requirements have been met or that the relinquishment is in the child's best interests, it may continue the matter and request a report from Indian Child Welfare and/or the Tribal Department of Social Services addressing the best interests of the child.
- (h) If the Court believes that a relinquishment is not in the best interests of the parties, including the child, it shall enter an order dismissing the action.
- (i) If the Court finds that it would be in the best interests of the child to appoint a guardian ad litem, such appointment shall be made.
- (j) The Court may interview the child in chambers to ascertain the child's wishes as to the relinquishment proceedings with the guardian ad litem present.

§115. Written Relinquishment Must State

A permanent relinquishment must be in writing and must state the following:

- (a) That the person executing the document is voluntarily and unequivocally consenting to his/her relinquishment of parental rights;

- (b) An understanding that after the permanent relinquishment is executed, it is final and, except for fraud or duress, may not be revoked or set aside for any reason except as otherwise authorized in this Chapter;
- (c) That the person executing the permanent relinquishment is represented by counsel or has waived any right to counsel;
- (d) That the execution of the permanent relinquishment does not terminate any duty of the person executing the permanent relinquishment to support the minor until the adoption is completed;
- (e) That the person executing the permanent relinquishment has not received or been promised any money or anything of value for the permanent relinquishment, except for payments authorized by law; and
- (f) That the person believes that the relinquishment of parental rights is in the minor's best interest.

§116. Adoptive Placement Designations.

Biological parents may designate a specific applicant with whom they wish to place their child for adoption. The Indian Child Welfare Department shall begin a written assessment of the designated placement upon the request of the parties. After review of such assessment, the Court may grant guardianship of the child to the designated applicant(s) pending hearings on relinquishment and adoption.

§117. Withdrawal of Consent or Revocation of Voluntary Relinquishment

After one consents to adoption or voluntarily relinquishes parental rights the consent or relinquishment can only be withdrawn or revoked if:

- (a) Proven by clear and convincing evidence of fraud, before a decree of adoption is issued, or within three (3) months of the discovery of fraud that the consent was obtained by fraud or duress; or
- (b) Proven by a preponderance of the evidence no petition to adopt was filed within nine (9) months of the consent or relinquishment.

§118. Notice of Motion to Set Aside Consent or Relinquishment

Notice of the motion to set aside the consent or permanent relinquishment and hearing on the motion shall be provided to:

- (a) The person who filed for adoption of the minor;
- (b) The Indian Child Welfare Department; and

- (c) To any person in whose favor the consent was given.

§119. Disposition of Child Following Voluntary Relinquishment of Parental Rights

- (a) No arrangement for placement of any child who is voluntarily relinquished shall be arranged by any person or agency other than the Indian Child Welfare Department or a licensed placement agency approved by the Indian Child Welfare Department.
 - (1) In cases involving an unborn child whose parent(s) are planning to relinquish parental rights at the time of the child's birth, every effort shall be made by the Indian Child Welfare Department to study and approve the prospective adoptive placement prior to the child's birth so that interim foster care can be avoided.
 - (2) The same care shall be taken to place any older child, who is voluntarily relinquished, in the home which affords the most likely probability of being a permanent adoptive home.
- (b) The Indian Child Welfare Department may place a child in pre-adoptive placement pending a court hearing on the relinquishment and proposed adoption providing that the home meets the minimum standards required by the Indian Child Welfare Department for pre-adoptive placements.
- (c) The relinquishment forms and a petition requesting approval of the pre-adoptive placement shall be filed in the Juvenile Court within forty-eight (48) hours of the child's placement. The petition shall set forth the following:
 - (1) The basis of the Court's jurisdiction;
 - (2) The full name, sex, date of birth, residence and tribal affiliation of the child and the relinquishing parent(s); and
 - (3) A full description of the relinquishment procedures and the placement plan for the child.
- (d) The Court upon review of the petition, shall make findings that the child is a ward of the Delaware Tribal Court under the care, control and supervision of the Indian Child Welfare Department until such time as a final order of adoption is issued or in those cases involving non-adoptive placement, until further order of the Court.

§120. When Consent of Parents Unnecessary

Adoption of a child may be decreed without the consent required in §112 of this Subchapter only if the parents, or the traditional custodians having custody, if the parents be deceased, have:

- (a) had their parental or custodial rights terminated by a decree of a Court of competent jurisdiction; or
- (b) been adjudicated incompetent by reason of mental disease, defect, or injury, or by abuse of alcohol or drugs, and it appears by a preponderance of the evidence that such person will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority; or
- (c) for a period of twelve (12) months immediately preceding the filing of the petition for adoption, willfully failed, refused, or neglected to provide and contribute to the support of the child either:
 - (1) In substantial compliance with any decree of a Court of competent jurisdiction ordering certain support to be contributed, or
 - (2) If no court order has been made ordering certain support, then within available means through contribution of financial support, physical necessities such as food, clothing, and shelter contributions, or by performing labor or other services for and at the request of the person or agency having custody; or
- (d) been finally adjudicated guilty of a felony and sentenced to death or to a term of imprisonment which is likely to prevent release of the parent for a period such that the parent will be unable to provide the necessary care and control of said child for a significant period of time prior to the child reaching majority.

In such cases, it shall not be necessary to obtain the consent of such parent, or to terminate the parental rights of such parent prior to adoption of the child.

§121. Notice and Hearing for Adoptions Without Consent

Before the Court hears a petition for adoption without the consent of the parents as provided in §120 of this Subchapter, except proceedings pursuant to §120(a), the person having authority to consent to the adoption, or the person petitioning for the adoption shall file an application for adoption without consent setting out the reason the consent of the other person is not necessary. The application shall be set for hearing at a date and time certain and the application shall contain the name of the child to be adopted, the time, date, and place of the hearing, the reason that the child is eligible for adoption without the consent of the parent, guardian, or custodian, and a notice that the adoption may be ordered if the parent, guardian, or custodian does not appear at the hearing and show cause why their consent is necessary. The application and notice shall be served on the parent, guardian, or custodian whose consent is alleged to be unnecessary in the same manner that civil summons is served. The hearing on the application shall be at least twenty-four (24) hours prior to the hearing on the adoption.

§122. Consent of Child

Whenever a child be of sufficient maturity and understanding the Court may, and in every case of a child over twelve (12) years of age the Court shall, require the consent of the child, expressed in such form as the Court shall direct, prior to the entry of a decree of adoption. Whenever possible, the Court should interview such child in private concerning the adoption prior to approving the child's consent.

§123-129. Reserved

§130. Confidential nature of proceedings and record

Unless the Court shall otherwise order, all hearings held in proceedings under this Chapter shall be confidential and shall be held in closed court without admission of any person other than interested parties and witnesses. Further, all papers, records or files pertaining to proceedings under this Chapter, except the final decree of adoption, kept by the Court or by the Indian Child Welfare Department shall be confidential and withheld from inspection except upon order of the Court for good cause shown. Upon application and for good cause being shown, the Court, by written order reciting its findings, may permit the necessary information to be released, or may restrict the purposes for which it shall be used. Any person in charge of adoption records or having access to adoption records or information who discloses any information, including, but not limited to, all records and reports relevant to the case and any records and reports of examination of the minor's parent or other custodian pertaining to an adoption proceeding, contrary to the provisions of this Chapter, may be charged criminally with a misdemeanor or be held civilly liable.

§131. Appointment of Guardian Ad Litem

The Court shall appoint a guardian ad litem in a contested proceeding and may appoint a guardian ad litem in an uncontested proceeding. Any person participating in a judicial proceeding as a guardian ad litem shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed.

§132. Petition

A petition for adoption shall be filed in duplicate, verified by the petitioners, and shall specifically state:

- (a) The full names, ages, and places of residence of the Petitioners, and, if married, the place and date of their marriage;
- (b) Their relationship with the child, if any, and their tribal affiliation by blood and membership, if any;
- (c) When and from whom the Petitioners acquired or intend to acquire physical custody of the child;

- (d) The names of the child's biological parents and their tribal affiliation by blood and membership, including tribal roll or membership numbers, if known;
- (e) The date and place of birth of the child including the jurisdiction issuing the birth certificate for said child, the child's sex, and tribal affiliation by blood and membership, including tribal roll or membership number, if known;
- (f) The name used for the child in the proceeding, and if a change in name is desired, the new name;
- (g) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child;
- (h) A full description and statement of the value of all property owned by or possessed by the child;
- (i) The facts, if any, which excuse the consent of the parents or either of them to the adoption;
- (j) Any required consents to the adoption must be filed with the Court prior to entry of a decree of adoption; and.
- (k) The facts which bring the child within the jurisdiction of the Court.

§133. Investigation/Contents of Adoptive Assessment.

- (a) Upon the filing of a petition for adoption, the Court shall order the Indian Child Welfare Department, with the technical assistance of the state and other government branches of welfare, to make an investigation of the petitioners, by a person qualified by training or experience, certification and designated by the Court. Further it is to be ordered that a report of such investigation shall be filed with the Court by the designated investigator with the time fixed by the Court and in no event more than sixty (60) days from the issuance of the order for investigation, unless time is extended by the Court. Such investigation shall include the history of the child; appropriate inquiry to determine whether the proposed home is a suitable one for the child and any other circumstances and conditions which may have a bearing on the adoption or custody and of which the Court should have knowledge.
- (b) A written assessment, completed by the Indian Child Welfare Department shall accompany all petitions for adoption, including stepparent adoptions. Such assessments shall include, but not be limited to, the following:
 - (1) The reasons for the availability of the child for adoption, including background information related to the biological parents;

- (2) The length of time the child has been in the care of the petitioner(s) and the adjustment of the child to that living arrangement;
- (3) An evaluation of the physical, mental and emotional health of the petitioner(s), all other members of the household and the child who is the subject of the petition;
- (4) An evaluation of the proposed physical setting in which the child will be placed with attention to safety issues;
- (5) A discussion of how the proposed placement resembles or is compatible with the child's culture, identity and tribal affiliation;
- (6) A discussion of the petitioner's plans and ability to promote the child's healthy growth and development; and
- (7) A recommendation for placement which specifically addresses the best interests of the child.

§134. Home Study

- (a) Home studies shall be conducted with at least two visits in the home, evaluate the desire and commitment to adopt, to explore reasons why prospective parents want to adopt, evaluate parenting and discipline style, and shall include a Summary and social worker's recommendation, and must also include, but is not limited to:
 - (1) Personal and family background, including upbringing, siblings, key events, and what was learned from them;
 - (2) Significant people in the lives of the applicants;
 - (3) Marriage and family relationships;
 - (4) Motivation to adopt;
 - (5) Expectations for the child;
 - (6) Feelings about infertility (if this is an issue);
 - (7) Parenting and integration of the child into the family;
 - (8) Family environment;
 - (9) Physical health history of the applicants;

- (10) Education, employment and finances, including insurance coverage and child care plans, if needed; and
- (11) References and criminal background clearances.
- (b) The Court may order agencies utilized in this matter to make separate investigations on separate parts of the inquiry, as may be appropriate.
- (c) Where the adopting parent is the spouse of a parent, or in the event that a report as outlined above deemed adequate for the purpose by the Court, has been made within six months next preceding the filing of the petition for adoption, the Court, in its discretion, may waive the making of an investigation and filing of a report.
- (d) Upon the filing of the report, the investigator shall serve written notice upon the petitioners that the report has been filed with the Court, provided, that the report shall remain confidential and the contents of the report shall not be divulged to the petitioners except upon the consent of the investigating officer and the Court, and except to Social Services, Indian Child Welfare, and the Tribal Prosecutor.

§135. Compensation

- (a) No person shall offer, give, charge, or receive any money or other consideration or thing of value in connection with the relinquishment and adoption, except attorney fees and such other charges and fees as may be approved by the Court.
- (b) No person, other than an adoption exchange whose membership includes county departments and child placement agencies, a licensed child placement agency, or a county department shall offer, give, charge, or receive any money or other consideration or thing of value in connection with locating or identifying for purposes of adoption any child, natural parent, expectant natural parent, or prospective adoptive parent; except that physicians and attorneys may charge reasonable fees for professional services customarily performed by such persons.
- (c) Any person who violates the provisions of this section shall be punished by a civil penalty of a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

§136. Interlocutory decree

Upon the examination of the report required in §133 of this Chapter, and after hearing, the Court may issue an interlocutory decree of adoption giving the care and custody of the child to the petitioners or any suitable person or persons, pending further order of the Court; provided, that if the child is a blood relative of one of the petitioners within the first or second degree, or is the stepchild of a petitioner, or has been living in the home of a petitioner for more than one (1) year preceding the date of the filing of the petition of adoption, the Court may waive the entry of an interlocutory decree of adoption, and immediately enter a final decree of adoption. Where an

interlocutory decree of adoption is entered, the Indian Child Welfare Department may observe the child in his home and report to the Court within six (6) months on any circumstances or conditions which may have a bearing on the adoption or custody.

§137. Final decree

- (a) Upon the application by the petitioner after six (6) months from the date of the interlocutory decree, or upon the Court's own motion at any time, the Court may set a time and place for additional hearing. Notice of the time and place of the hearing shall be served on the Indian Child Welfare Department. The Indian Child Welfare Department shall file with the Court a written report of its findings and recommendations and certify that the required investigation has been made since the granting of the interlocutory decree. After such hearing, the Court may enter a final decree of adoption, if satisfied that the adoption is in the best interest of the child, or may make such other order as it sees fit.
- (b) If the Court finds that the adoption will not be in the child's best interests or finds that the procedural requirements have not been met, it may dismiss the petitions or continue the matter and make those orders it deems necessary for the care, control and supervision of the child.
- (c) If the Court finds that the requirements of this article have been met and that the adoption is in the child's best interest, it shall issue an interlocutory order of adoption pending the final adoption on the matter.
- (d) No sooner than six (6) months from the date of the initial hearing, the Court may enter a final decree of adoption upon the recommendation of the Indian Child Welfare Department. The Court shall specify in writing the facts, grounds and code sections upon which it relied in making its decision. Copies of the order shall be furnished to all parties.

§138. Effect of final decree

- (a) After the final decree of adoption is entered the relations of parent and child and the rights, duties, obligations and other legal consequences of the natural relation of the child and parent shall thereafter exist between the child and the adoptive parents. The status of the child as a citizen of the Delaware Tribe shall not be affected by any adoption, and such child shall not forfeit his rights to inherit from his natural parents by descent or distribution or otherwise.
- (b) After the final decree of adoption is entered, the natural parents of the adoptive child, except a natural parent who is also an adoptive parent or the spouse of an adoptive parent, shall be relieved of all parental responsibilities for such child and have no rights over such child or to his property by descent or distribution or otherwise.

§139. Hearing and Records Confidential

- (a) All hearings held in proceedings under this Subchapter shall be confidential and shall be held in closed court without admittance of any person other than the interested parties, including traditional custodians, representatives of Social Services and/or Indian Child Welfare when deemed necessary by the Court, persons whose presence is requested by the parties in private before the Court after the exclusion of all other persons, and the counsel for the parties, traditional custodians, Social Services and/or Indian Child Welfare.
- (b) All papers, records, and files pertaining to the adoption shall be kept as a permanent record of the Court and withheld from inspection. No person shall have access to such records except:
 - (1) Upon order of the Court for good cause shown;
 - (2) Upon the adopted person reaching the age of eighteen, the adopted person may review the records unless the natural parents have by affidavit requested anonymity, in which case, their names and identifying characteristics, not including tribal membership and degree of blood, shall be deleted prior to allowing the adopted person access to the records;
 - (3) The traditional custodian and natural grandparents shall have access to the records unless the natural parents have by affidavit requested anonymity in which case their names and identifying characteristics shall be deleted prior to allowing them access to the records as in the preceding paragraph. If the adopting parent requests anonymity, by affidavit, the traditional custodians and natural grandparents may have access to the records only by order of the Court for good cause shown, and then only if the court deems such request in the best interest of the child.
 - (4) For the purpose of obtaining the enrollment of the child with another Indian Tribe, the Court may upon request of an enrollment officer of that Tribe, certify to that officer pertinent facts to enable that officer to determine the eligibility of the child for membership in that Tribe subject to the written guarantee, with an undertaking if deemed necessary by the Court, that such facts will remain confidential and divulged only to those persons who must know the facts to obtain the enrollment of the child. In the alternative, and in cases where may certify a copy of the record of the case to a Judge of the Court of the other Tribe for an in camera review only, or allow such Judge to review the record in the District Court, in camera, for the purpose of said Judge certifying to his Tribe that the child is eligible for membership in that Tribe.

§140. Certificates of Adoption

- (a) For each adoption or annulment of adoption, the Court shall prepare, within thirty (30) days after the decree becomes final, a certificate of such decree on a form furnished by the registrar of vital statistics of the State or other jurisdiction having issued the birth certificate of said child, and shall attach thereto certified copies of the petition and decree of adoption, and any other information required by law by the registrar.
- (b) Such form and certified copies, along with any other pertinent information requested by the jurisdiction having issued the birth certificate shall be forwarded forthwith to the registrar of vital statistics of the appropriate jurisdiction;
- (c) One certified copy of the form certificate, petition, and decree of adoption may be forwarded to the Secretary of the Interior. The material forwarded to the Secretary shall also contain a Judge's certificate showing:
 - (1) The original and adoptive names and tribal affiliation of the child;
 - (2) The names, addresses, tribal affiliation and decree of blood when known of the biological parents;
 - (3) The names and addresses of the adoptive parents;
 - (4) The identity of agencies having filed information relating to the adoptive placement; and
 - (5) Any affidavit of the biological parent requesting that their identity remain confidential.

§141. Adoption of Adults

- (a) An adult person may be adopted by any other adult person with the consent of the person to be adopted, or his guardian, if the Court shall approve, and with the consent of the spouse of the adopting parent, if any, filed in writing with the Court. The consent of the adopted adult's parents shall not be necessary unless said adult has been adjudicated incompetent, nor shall an investigation be made. Such adoption shall follow the procedure otherwise set forth herein. Such adoption shall create the relationship of parent and child between the parties, but shall not destroy the parent-child relationship with the biological parents, unless specifically requested by the adopted adult in writing in open Court. Unless, so requested, the legal effect of such decree, for all purposes, including inheritance, but not including tribal enrollment eligibility, shall be that the adopted person is the child of both sets of parents equally.

- (b) Proceedings and records relating to the adoption of an adult shall be open to the public as are records of other civil cases.

§142. Reversing a Final Decree of Adoption

No final decree of adoption shall be challenged by reason of fraud or jurisdictional or substantial procedural error after the expiration of one (1) year following the entry of the final decree unless the affected parent did not learn of the basis for challenging the decree until after one (1) year. In such circumstances, the parent will be entitled to a period of three (3) months from the date of discovery of the facts underlying the reasons for reversal to file a petition requesting annulment of the adoption.

§143. Appeals

An appeal from a decision in an adoption proceeding may be taken in the same manner as appeals in civil cases.

§144. Tribe's Right to Intervene

It is the right of the Delaware Tribe of Indians to intervene in both voluntary and involuntary proceedings regarding its children and must be given notice of adoptions in all instances where parental rights are terminated by any means. A request for anonymity from a relinquishing parent must be followed by an announcement, whether written or oral, that the Delaware Tribe of Indians must be notified and may intervene at any point in the proceedings.

