

§9-202. Surrender and release; consent

1. Surrender and release or consent; presence of judge. With the approval of the court of any county within the State and after a determination by the court that a surrender and release or a consent is in the best interest of the child, the parents or surviving parent of a child may at any time at least 72 hours after the child's birth:

A. Surrender and release all parental rights to the child and the custody and control of the child to a licensed child-placing agency or the department to enable the licensed child-placing agency or the department to have the child adopted by a suitable person; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Consent to have the child adopted by a specified petitioner. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

The parents or the surviving parent must execute the surrender and release or the consent in the presence of the judge. The adoptee, if 14 years of age or older, must execute the consent in the presence of the judge. The waiver of notice by the putative parent is governed by section 9-201, subsection 3. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Approval of surrender and release or consent. The court may approve a surrender and release or a consent only if:

A. A licensed child-placing agency or the department certifies to the court that counseling was provided or was offered and refused. This requirement does not apply if:

(1) One of the petitioners is a blood relative; or

(2) The adoptee is an adult; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The court has explained the individual's parental rights and responsibilities, the effects of the surrender and release or the consent, that in all but specific situations the individual has the right to revoke the surrender and release or consent within 5 working days and the existence of the adoption registry and the services available under Title 22, section 2706-A. The individual does not have the right to revoke the consent when the individual is a consenting party and also a petitioner; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The court determines that the surrender and release or the consent has been duly executed and was given freely after the parent was informed of the parent's rights; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Except when a consenting party is also a petitioner, at least 5 working days have elapsed since the parents or parent executed the surrender and release or the consent and the parents or parent did not withdraw or revoke the surrender and release or consent before the judge or, if the judge was not available, before the register. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Original; copies. The original surrender and release or consent must be filed in the court where the surrender and release or the consent is executed. An attested copy of the surrender and release or consent must be filed in the court in which the petition is filed. The court in which the surrender and release or the consent is executed shall provide an attested copy to each surrendering or consenting party and an attested copy to the transferring agency. The copy given to the surrendering or consenting party must contain a statement explaining the importance of keeping the court informed of a current name and address.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Valid after 5 days; exception. A surrender and release or a consent is not valid until 5 working days after it has been executed, except that consent by a parent petitioning to adopt that parent's own child with that parent's spouse is valid upon signature.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §17 (AFF).]

5. Consent acknowledged. Consent may be acknowledged before a notary public who is not an attorney for the adopting parents or a partner, associate or employee of an attorney for the adopting parents when consent is given by:

A. The department or a licensed child-placing agency; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. A public agency or a duly licensed private agency to which parental rights have been transferred under the law of another state or country. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Final and irrevocable; exceptions. Except as provided in subsection 7 and section 9-205, subsection 2, a surrender and release or a consent is final and irrevocable upon the court's approval of the surrender and release or consent pursuant to subsection 2.

[PL 2019, c. 417, Pt. A, §104 (AMD).]

7. Consent; limitations. A consent is final only for the adoption consented to, and if that petition for adoption is withdrawn or dismissed or if the adoption is not finalized within 18 months of the execution of the consent, a review must be held pursuant to section 9-205.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

8. Surrender and release or consent from another state. The court shall accept a surrender and release or a consent by a court of comparable jurisdiction in another state if the court receives an affidavit from a member of that state's bar or a certificate from that court of comparable jurisdiction stating that:

A. The party executing the surrender and release or the consent followed the procedure required to make a surrender and release or a consent valid in the state in which it was executed; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The court of comparable jurisdiction advised the person executing the surrender and release or the consent of the consequences of the surrender and release or the consent under the laws of the state in which the surrender and release or the consent was executed. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

The court shall accept a waiver of notice by a putative parent that meets the requirements of section 9-201, subsection 3.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §104 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

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