

922 KAR 1:010. Independent non-relative adoptions.

RELATES TO: KRS 199.011, 199.470- 199.473, 199.474(1)(b), 199.480, 199.490(3), 199.492, 199.493, 199.500, 199.510, 199.520, 199.540, 199.570, 199.572, 199.590, 199.990, 615.030, Chapter 625

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472, 199.473(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate, administer, and enforce administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.472 requires the cabinet to promulgate administrative regulations that establish criteria to be followed for adoption of children. KRS 199.473(3) requires a home study to be made in accordance with administrative regulations promulgated by cabinet. This administrative regulation establishes the procedure for an independent non-relative adoption.

Section 1. Definitions. (1) "Adoption worker" is defined by KRS 199.011(1).

(2) "Child" is defined by KRS 199.011(4).

(3) "Child-placing agency" is defined by KRS 199.011(6).

(4) "Compact administrator" means the individual appointed pursuant to the terms of the Interstate Compact on the Placement of Children (ICPC) who is responsible for the administration and management of the ICPC within the Commonwealth of Kentucky.

(5) "Home study" is defined by KRS 199.474(1)(b).

(6) "Independent non-relative adoption" means an adoption that is not exempted from secretary approval by KRS 199.470(4).

(7) "Prospective adoptive parent" is defined by 922 KAR 1:100(1).

Section 2. Eligibility. (1) An attorney, child-placing agency, or prospective adoptive parent shall determine if a prospective adoptive parent qualifies for the cabinet to complete the home study, in accordance with KRS 199.473(3).

(2) If the prospective adoptive family is over the income limit to qualify for the cabinet to complete the family's home study in accordance with KRS 199.473(3) and Section 6 of this administrative regulation, a home study shall be:

(a) Completed by a child-placing agency; and

(b) Forwarded to the cabinet along with documentation required in accordance with Section 3 of this administrative regulation.

(3) The cabinet shall:

(a) Process an application for an independent non-relative adoption in accordance with Section 3 of this administrative regulation; and

(b) Cause a home study to be completed in accordance with Section 6 of this administrative regulation.

Section 3. Application for Permission to Proceed with an Independent Non-Relative Adoption. (1) To apply for permission to proceed with the filing of a petition for an independent non-relative adoption, an applicant shall complete and file the DPP-187, Independent Non-Relative Adoption Application, in accordance with subsections (2) through (8) of this section.

(2) The DPP-187 shall be:

(a) Signed by:

1. Each prospective adoptive parent wishing to receive a child;

2. Each parent wishing to place a child; or

3. Both parties involved;

(b) Filed in writing with the secretary, in care of the Department for Community Based Services, attention: Adoption Services Branch, 275 E. Main Street, 3C-E, Frankfort, Kentucky 40621;

(c) Accompanied by the forms and information listed in subsection (3) of this section; and

(d) Accompanied by a nonrefundable fee of \$200, required by KRS 199.473(13), which shall be:

1. Sent per submission and not per child;

2. In the form of a certified or cashier's check; and

3. Payable to the Kentucky State Treasurer.

(3) The following forms and documents shall be filed with the completed DPP-187:

(a) The DPP-105, Medical Information on Child's Birth, a copy of the child's hospital newborn medical record, or The DPP-108A, Health Information Required for Prospective Adoptive Parent(s) regarding Dependent Children;

(b) A copy of the custody order showing that the child's custody has been awarded to the prospective adoptive parent;

(c) The DPP-190, Information to be Obtained from Prospective Adoptive Parent(s);

(d) Verification of current marriage, prior divorce, or death of a prior spouse of the prospective adoptive parent;

(e) Most recent tax return or written verification of income from the income source for each prospective adoptive parent;

(f) The DPP-108A, Health Information Required for Prospective Adoptive Parent(s) Regarding Dependent Children for each child residing in a prospective adoptive parent's home; and

(g) Documentation in accordance with 922 KAR 1:350, Section 2(8), completed by each prospective adoptive parent and all adult household members.

(4) The DPP-187 shall be considered officially filed:

(a) When received by the Adoption Services Branch of the Department for Community Based Services; and

(b) If it meets the requirements of this section.

(5) The cabinet shall return to sender an application that does not meet the requirements of this section.

Section 4. Limitations to Filing. (1) In the case of twins who are available and suitable for adoption, the DPP-187 shall not be accepted unless the prospective adoptive parent applies to receive both children.

(2) If the DPP-187 for a child has been filed, subsequent applications for the same child shall not be accepted unless the previous DPP-187 has been withdrawn by a written request to the cabinet by one (1) of the parties involved.

(3) If one or both of the placing parents reside outside of Kentucky, the DPP-187 shall not be accepted unless an interstate compact adoption packet is received from the state placing the child in Kentucky.

(4) The DPP-187 shall not be processed if, prior to the receipt of the application, the child was in the temporary custody of or committed to the cabinet by order of the district or circuit court.

Section 5. Preadoptive Placement. (1)(a) The child shall not be in the physical care, control, or custody of a prospective adoptive parent, unless a circuit court grants temporary custody in accordance with KRS 199.473(7) and (8).

(b) If the child is found in the physical care of a prospective adoptive parent without a circuit

court order of temporary custody, the cabinet shall take action in accordance with KRS 199.473(11) until the written approval of the secretary or designee is received by a prospective adoptive parent.

(2)(a) If either the child's custodial parent or a prospective adoptive parent reside out-of-state, the written approval of the compact administrator shall be given before the child's pre-adoptive placement with a prospective adoptive parent can occur.

(b) If the child's custodial parent resides out-of-state and the child is found in Kentucky without the approval of the compact administrator, the child shall be removed from Kentucky and a neutral setting arrangement made within the state of the custodial parent's residence.

(3) If the disposition of the DPP-187 is pending, the cabinet may cooperate with the custodial parent of the child in finding suitable temporary placement for the child.

(4)(a) During the time between filing the DPP-187 and the decision of the cabinet granting or denying the application, the responsibility for providing for the care of the child shall not rest with the cabinet unless a court has placed the child with the cabinet, with the agreement of the cabinet, after the filing of the DPP-187.

(b) The responsibility shall remain with the custodial parent of the child during this time.

Section 6. Home Study Requirements. (1) If the DPP-187 has been filed with the Department for Community-Based Services, the department shall cause a home study of the prospective adoptive home to be completed, in accordance with the provisions of KRS 199.473(2), (3), and (4) for applicants who meet the requirements of Section 2(1) of this administrative regulation.

(2)(a) Prior to filing a DPP-187, a prospective adoptive parent may contract with a licensed child-placing agency to complete a home study and background checks of each prospective adoptive parent and household.

(b) The home study of a prospective adoptive parent shall include:

1. A minimum of three (3) personal references, including one (1) from a relative of a prospective adoptive parent;

2. A minimum of two (2) financial references;

3. Criminal background check conducted in accordance with KRS 199.473(2);

4. A Child abuse and neglect check conducted in accordance with 922 KAR 1:490;

5. Documentation by the adoption worker of:

a. A minimum of one (1) home visit and face-to-face interview with each prospective adoptive parent and members of the parent's household; and

b. Contact with the prospective adoptive parent's adult child on the DPP-197, Adult Child Interview, if the cabinet is able to locate the adult child; and

6.a. Sections I, II, III & V of the DPP-199, Independent Non-Relative Adoption Home Study, completed by the adoption worker in regard to the prospective adoptive parent's home and family background;

b. Section IV of the DPP-199 if the same agency is completing the birth parent interviews; and

c. A determination by the adoption worker of the prospective adoptive parent's suitability to proceed with an independent adoption.

(3) If an adoption worker for a licensed child-placing agency determines, at the completion of background checks in accordance with KRS 199.473(8), that a prospective adoptive parent does not appear suitable to proceed with an independent non-relative adoption, the worker shall provide written notification to the Department for Community-Based Services, Adoption Services Branch, 275 East Main Street, 3C-E, Frankfort, Kentucky 40621.

(4) The adoption worker shall discuss the child's background and potential placement with

each prospective adoptive parent and make a determination of each prospective adoptive parent's ability to meet the needs of the specific child and provide the child with a suitable home.

(5) The adoption worker shall complete the DPP-199 for review and:

(a) Processing with the Interstate Compact, if applicable; and

(b) Consideration in the secretary's or designee's decision about the application for an independent adoption.

Section 7. Interviewing the Biological Parents. (1) Any party to the court case may request a search of the putative father registry in accordance with KRS 199.505 and 922 KAR 1:560.

(2) If the biological or placing parents, legal father, or putative father reside in Kentucky, the adoption worker shall make a diligent effort to interview the custodial biological or each placing parent of the child to be placed and the non-custodial biological parent, legal father, or putative father to:

(a) Determine whether the biological parents are aware and accepting of the ethnic and religious background of each prospective adoptive parent;

(b) Determine whether they agree to the placement of the child with each prospective adoptive parent;

(c) Obtain health history and sociological information on the child's family with a DPP-191, Information to be Obtained From the Placing Parent;

(d) Document the placing parent's knowledge of the independent adoption with the DPP-191A, Information to be Obtained from the Placing Parent for Independent Adoptions; and

(e) Determine the biological parents' feelings about possible future contact with the adopted person on a DPP-192, Biological Parent Consent Form, in accordance with KRS 199.572.

(3) If a child's placing parent refuses to be interviewed by the cabinet representative or the appropriate Kentucky or out-of-state adoption worker, the cabinet may deny the application.

(4)(a) If a child's placing parent lives out-of-state, efforts shall be made to have the biological or placing parents, and legal or putative father, if different than the biological father, interviewed for the purposes specified in subsection (2) of this section.

(b) The interviews with out-of-state biological or placing parents or legal or putative father shall be accepted if conducted by a licensed private adoption agency in the respective state.

(5) If after diligent efforts of the out-of-state public or private agency, the biological or placing parents, legal or putative father, or legal custodian of the child cannot be interviewed, or if the information and material cannot be obtained, the secretary or designee may approve the placement provided the other conditions of KRS 615.030, the Interstate Compact on the Placement of Children, have been met.

Section 8. Final Decision Regarding Prospective Adoptive Home. (1) Upon completion of the home study, each prospective adoptive parent shall be notified by certified mail of the decision of the secretary or designee, either granting or denying permission for the placement or receiving of the child.

(2) The petition for adoption may be filed in accordance with Section 9 if the cabinet grants permission for the child's placement.

(3) If the permission is denied, a prospective adoptive parent or a placing parent may appeal the decision. If appealing, a prospective adoptive or a placing parent shall, within ten (10) days after notice of denial, appeal the decision to the circuit court of the county in which the adoption is proposed in accordance with KRS 199.473(9).

Section 9. Filing of the Petition to Adopt. (1) If a child has been placed in a prospective adoptive home with the permission of the secretary or designee, a prospective adoptive parent

may file the petition for adoption in the circuit court in the county of their residence with the secretary's or designee's written approval in accordance with KRS 199.470(3) and 199.473.

(2) Subsequent to the filing of a petition in Kentucky to finalize an independent non-relative adoption made with the written approval of the secretary, the agency that completed the home study, shall prepare the confidential report to the court in accordance with KRS 199.510(2) and KRS 199.590(6).

Section 10. Incorporation by Reference. (1)The following material is incorporated by reference:

- (a) "DPP-105, Medical Information on Child's Birth", 11/05;
- (b) "DPP-108A, Health Information Required for Prospective Adoptive Parent(s) Regarding Dependent Children", 1/19;
- (c) "DPP-187, Independent Non-Relative Adoption Application", 1/19;
- (d) "DPP-190, Information to be Obtained from Prospective Adoptive Parent(s)", 1/19;
- (e) "DPP-191, Information to be Obtained from the Placing Parent", 11/05;
- (f) "DPP-191A, Information to be Obtained from the Placing Parent for Independent Adoptions", 11/05;
- (g) "DPP-192, Biological Parent Consent Form", 11/05;
- (h) "DPP-197, Adult Child Interview", 11/05; and
- (i) "DPP-199, Independent Non-Relative Adoption Home Study", 2/19.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday 8 a.m. to 4:30 p.m. (DCW-DLS 2, 3, 4; 1 Ky.R. 294; eff. 1-8-1975; 14 Ky.R. 1009; eff. 12-11-1987; 18 Ky.R. 1598; eff. 1-10-1992; 20 Ky.R. 865; eff. 12-6-1993; 21 Ky.R. 651; 1072; eff. 9-21-1994; Recodified from 905 KAR 1:010, 10-30-1998; 32 Ky.R. 566; TAm eff. 10-27-2004; 894; eff. 11-16-2005; TAm eff. 3-30-2015; 45 Ky.R. 1142, 2143, 2354; eff. 2-21-2019.)