



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3079

by Rep. Keith P. Sommer

#### SYNOPSIS AS INTRODUCED:

750 ILCS 50/2	from Ch. 40, par. 1502
750 ILCS 50/4.1	from Ch. 40, par. 1506
750 ILCS 50/5	from Ch. 40, par. 1507
750 ILCS 50/13	from Ch. 40, par. 1516

Amends the Adoption Act. Provides for the re-adoption and confirmation of the foreign adoption decree of a child adopted in a foreign country. Provides documentation and procedural requirements. Adds provisions governing adoption by married parents, parents who subsequently divorce and re-marry, and parents who have entered into a civil union. Makes corresponding changes.

LRB099 08115 HEP 28264 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Adoption Act is amended by changing Sections  
5 2, 4.1, 5, and 13 as follows:

6 (750 ILCS 50/2) (from Ch. 40, par. 1502)

7 Sec. 2. Who may adopt a child.

8 A. Any of the following persons, who is under no legal  
9 disability (except the minority specified in sub-paragraph  
10 (b)) and who has resided in the State of Illinois continuously  
11 for a period of at least 6 months immediately preceding the  
12 commencement of an adoption proceeding, or any member of the  
13 armed forces of the United States who has been domiciled in the  
14 State of Illinois for 90 days, may institute such proceeding:

15 (a) A reputable person of legal age and of either sex,  
16 provided that if such person is married or in a civil union  
17 and has not been living separate and apart from his or her  
18 spouse or civil union partner for 12 months or longer, his  
19 or her spouse or civil union partner shall be a party to  
20 the adoption proceeding, including a spouse or civil union  
21 partner ~~husband or wife~~ desiring to adopt a child of the  
22 other spouse or civil union partner, in all of which cases  
23 the adoption shall be by both spouses or civil union

1           partners jointly;

2           (b) A minor, by leave of court upon good cause shown.

3           Notwithstanding sub-paragraph (a) of this subsection, a  
4           spouse or civil union partner is not required to join in a  
5           petition for adoption to re-adopt a child after an intercountry  
6           adoption if the spouse or civil union partner did not  
7           previously adopt the child as set forth in subsections (c) and  
8           (e) of Section 4.1 of this Act.

9           B. The residence requirement specified in paragraph A of  
10          this Section shall not apply to:

11           (a) an adoption of a related child or child previously  
12           adopted in a foreign country by the petitioner; or

13           (b) an adoption of a child placed by an agency.

14          (Source: P.A. 98-804, eff. 1-1-15.)

15           (750 ILCS 50/4.1) (from Ch. 40, par. 1506)

16          Sec. 4.1. Adoption between multiple jurisdictions.

17           (a) The Department of Children and Family Services shall  
18          promulgate rules regarding the approval and regulation of  
19          agencies providing, in this State, adoption services, as  
20          defined in Section 2.24 of the Child Care Act of 1969, which  
21          shall include, but not be limited to, a requirement that any  
22          agency shall be licensed in this State as a child welfare  
23          agency as defined in Section 2.08 of the Child Care Act of  
24          1969. Any out-of-state agency, if not licensed in this State as  
25          a child welfare agency, must obtain the approval of the

1 Department in order to act as a sending agency, as defined in  
2 Section 1 of the Interstate Compact on Placement of Children  
3 Act, seeking to place a child into this State through a  
4 placement subject to the Interstate Compact on the Placement of  
5 Children. An out-of-state agency, if not licensed in this State  
6 as a child welfare agency, is prohibited from providing in this  
7 State adoption services, as defined by Section 2.24 of the  
8 Child Care Act of 1969; shall comply with Section 12C-70 of the  
9 Criminal Code of 2012; and shall provide all of the following  
10 to the Department:

11 (1) A copy of the agency's current license or other  
12 form of authorization from the approving authority in the  
13 agency's state. If no license or authorization is issued,  
14 the agency must provide a reference statement, from the  
15 approving authority, stating that the agency is authorized  
16 to place children in foster care or adoption or both in its  
17 jurisdiction.

18 (2) A description of the program, including home  
19 studies, placements, and supervisions, that the child  
20 placing agency conducts within its geographical area, and,  
21 if applicable, adoptive placements and the finalization of  
22 adoptions. The child placing agency must accept continued  
23 responsibility for placement planning and replacement if  
24 the placement fails.

25 (3) Notification to the Department of any significant  
26 child placing agency changes after approval.

1 (4) Any other information the Department may require.

2 The rules shall also provide that any agency that places  
3 children for adoption in this State may not, in any policy or  
4 practice relating to the placement of children for adoption,  
5 discriminate against any child or prospective adoptive parent  
6 on the basis of race.

7 (a-5) (Blank).

8 (b) Interstate Adoptions.

9 (1) All interstate adoption placements under this Act  
10 shall comply with the Child Care Act of 1969 and the  
11 Interstate Compact on the Placement of Children. The  
12 placement of children with relatives by the Department of  
13 Children and Family Services shall also comply with  
14 subsection (b) of Section 7 of the Children and Family  
15 Services Act.

16 (2) If an adoption is finalized prior to bringing or  
17 sending a child to this State, compliance with the  
18 Interstate Compact on the Placement of Children is not  
19 required.

20 (c) Intercountry Adoptions.

21 (1) The adoption of a child, if the child is a habitual  
22 resident of a country other than the United States and the  
23 petitioner is a habitual resident of the United States, or,  
24 if the child is a habitual resident of the United States  
25 and the petitioner is a habitual resident of a country  
26 other than the United States, shall comply with the

1 Intercountry Adoption Act of 2000, as amended, and the  
2 Immigration and Nationality Act, as amended.

3 (2) The Department of Children and Family Services  
4 shall maintain the office of Intercountry Adoption  
5 Coordinator in order to maintain and protect the rights of  
6 prospective adoptive parents and children participating in  
7 an intercountry adoption and shall develop ongoing  
8 programs of support and services to such prospective  
9 adoptive parents and children.

10 (3) In the case of an intercountry adoption of a child  
11 by an Illinois resident, the Department shall promulgate  
12 rules concerning preadoption requirements, which shall  
13 include, but not be limited to, requirements relating to  
14 home studies conducted by licensed child welfare agencies  
15 and requirements relating to supporting documentation  
16 concerning the prospective adoptive parent's suitability  
17 to adopt a child.

18 (4) The Intercountry Adoption Coordinator shall  
19 determine whether all preadoption requirements have been  
20 met by a prospective adoptive parent. The Intercountry  
21 Adoption Coordinator shall also determine whether the  
22 prospective adoptive parent is suitable as the adoptive  
23 parent. In determining suitability to adopt, the  
24 Intercountry Adoption coordinator shall give considerable  
25 weight to the home study, but is not bound by it. Even if  
26 the home study is favorable, the Intercountry Adoption

1 Coordinator must issue a denial letter if, on the basis of  
2 all the information provided, the Intercountry Adoption  
3 Coordinator finds, for a specific and articulable reason,  
4 that the prospective adoptive parent has failed to  
5 establish that he or she is suitable as the adoptive  
6 parent.

7 (5) The Intercountry Adoption Coordinator shall issue  
8 an endorsement letter, indicating that all preadoption  
9 requirements have been met, or a denial letter, indicating  
10 the specific preadoption requirements that have not been  
11 met, no later than 21 days from receipt of the home study  
12 from the child welfare agency. If, upon receipt of the home  
13 study, the Intercountry Adoption Coordinator determines  
14 that more information is required before any determination  
15 can be made with respect to compliance with the preadoption  
16 requirements, the Intercountry Adoption Coordinator shall,  
17 within 7 days of receipt of the home study, provide notice  
18 describing the additional information, via facsimile or  
19 through electronic communication, to the licensed child  
20 welfare agency and the adoptive parent. Within 21 days of  
21 receipt of the additional information, the Intercountry  
22 Adoption Coordinator shall provide the child welfare  
23 agency with an endorsement letter or a denial letter. The  
24 Intercountry Adoption Coordinator shall mail a copy of the  
25 endorsement letter or denial letter to the prospective  
26 adoptive parent at the same time that the Intercountry

1 Adoption Coordinator provides the letter to the child  
2 welfare agency.

3 (6) If the Intercountry Adoption Coordinator issues a  
4 denial letter, a prospective adoptive parent shall have the  
5 right to a review. The Intercountry Adoption Coordinator  
6 shall include in its denial letter notification advising  
7 the prospective adoptive parent of the right to seek a  
8 review, by the Director of the Department, of the  
9 determination, if requested in writing within 30 days of  
10 receipt of the denial letter. Failure to submit such a  
11 request within 30 days waives the prospective parent's  
12 right to a review.

13 (i) The review by the Director shall include, but  
14 is not limited to, a review of documentation submitted  
15 by the prospective adoptive parent and, if requested by  
16 the prospective adoptive parent, a telephone  
17 conference or a mutually convenient in-person meeting  
18 with the Director, or the Director's designated  
19 representative, to allow the prospective adoptive  
20 parent to present the facts and circumstances  
21 supporting the request for the endorsement letter.

22 (ii) The Director shall issue a decision within 30  
23 days of receipt of the request for review.

24 (iii) If the Director concurs with the original  
25 denial letter of the Intercountry Adoption  
26 Coordinator, the Director's decision shall be

1           considered a final decision and the prospective  
2           adoptive parent shall have all rights and remedies to  
3           which he or she is entitled under applicable law,  
4           including a mandamus action under Article XIV of the  
5           Code of Civil Procedure and an action under the federal  
6           Civil Rights Act, 42 U.S.C. 1983.

7           (7) In the case of an intercountry adoption finalized  
8           in another country, where a complete and valid Order of  
9           Adoption is issued from that country to an Illinois  
10          resident, as determined by the United States Department of  
11          State, this State shall not impose any additional  
12          preadoption requirements.

13          (8) The Department of Children and Family Services  
14          shall provide a report to the General Assembly, on an  
15          annual basis for the preceding year, beginning on September  
16          1 of each year after the effective date of this amendatory  
17          Act of the 98th General Assembly. The report shall provide  
18          non-identifying statistical data on the endorsement and  
19          denial letters and the requests for review of denial  
20          letters and shall contain, but not limited to, the  
21          following:

22                  (i) the number of endorsement letters issued by the  
23                  Intercountry Adoption Coordinator;

24                  (ii) the number of denial letters issued by the  
25                  Intercountry Adoption Coordinator;

26                  (iii) the number of requests for review of denial

1 letters;

2 (iv) the number of denial letter reviews which  
3 resulted in a reversal by the Director and an  
4 endorsement letter being issued; and

5 (v) the basis of each denial letter and the basis  
6 of each reversal of the denial letter in a particular  
7 case.

8 (d) (Blank).

9 (e) Re-adoption after an intercountry adoption.

10 (1) Any time after a minor child has been adopted in a  
11 foreign country and has immigrated to the United States,  
12 the adoptive parent or parents of the child may petition  
13 the court for a judgment of adoption to re-adopt the child  
14 and confirm the foreign adoption decree.

15 (2) The petitioner must submit to the court one or more  
16 of the following to verify the foreign adoption:

17 (i) an immigrant visa for the child issued by  
18 United States Citizenship and Immigration Services of  
19 the U.S. Department of Homeland Security that was valid  
20 at the time of the child's immigration;

21 (ii) a decree, judgment, certificate of adoption,  
22 adoption registration, or equivalent court order,  
23 entered or issued by a court of competent jurisdiction  
24 or administrative body outside the United States,  
25 establishing the relationship of parent and child by  
26 adoption; or

1           (iii) such other evidence deemed satisfactory by  
2           the court.

3           (3) The child's immigrant visa shall be prima facie  
4           proof that the adoption was established in accordance with  
5           the laws of the foreign jurisdiction and met United States  
6           requirements for immigration.

7           (4) If the petitioner submits documentation that  
8           satisfies the requirements of paragraph (2), the court  
9           shall not appoint a guardian ad litem for the minor who is  
10          the subject of the proceeding, shall not require any  
11          further termination of parental rights of the child's  
12          biological parents, nor shall it require any home study,  
13          investigation, post-placement visit, or background check  
14          of the petitioner.

15          (5) The petition may include a request for change of  
16          the child's name and any other request for specific relief  
17          that is in the best interests of the child. The relief may  
18          include a request for a revised birth date for the child if  
19          supported by evidence from a medical or dental professional  
20          attesting to the appropriate age of the child or other  
21          collateral evidence.

22          (6) Two adoptive parents who adopted a minor child  
23          together in a foreign country while married to one another  
24          may file a petition for adoption to re-adopt the child  
25          jointly, regardless of whether their marriage has been  
26          dissolved. If either parent whose marriage was dissolved

1 has subsequently remarried or entered into a civil union  
2 with another person, the new spouse or civil union partner  
3 shall not join in the petition to re-adopt the child,  
4 unless the new spouse or civil union partner is seeking to  
5 adopt the child. If either adoptive parent does not join in  
6 the petition, he or she must be joined as a party  
7 defendant. The defendant parent's failure to participate  
8 in the re-adoption proceeding shall not affect the existing  
9 parental rights or obligations of the parent as they relate  
10 to the minor child, and the parent's name shall be placed  
11 on any subsequent birth record issued for the child as a  
12 result of the re-adoption proceeding.

13 (7) An adoptive parent who adopted a minor child in a  
14 foreign country as an unmarried person may file a petition  
15 for adoption to re-adopt the child as a sole petitioner,  
16 even if the adoptive parent has subsequently married or  
17 entered into a civil union.

18 (8) If one of the adoptive parents who adopted a minor  
19 child dies prior to a re-adoption proceeding, the deceased  
20 parent's name shall be placed on any subsequent birth  
21 record issued for the child as a result of the re-adoption  
22 proceeding.

23 (Source: P.A. 98-455, eff. 1-1-14.)

24 (750 ILCS 50/5) (from Ch. 40, par. 1507)

25 Sec. 5. Petition, contents, verification, filing.

1           A. A proceeding to adopt a child, other than a related  
2 child, shall be commenced by the filing of a petition within 30  
3 days after such child has become available for adoption,  
4 provided that such petition may be filed at a later date by  
5 leave of court upon a showing that the failure to file such  
6 petition within such 30 day period was not due to the  
7 petitioners' culpable negligence or their wilful disregard of  
8 the provisions of this Section. In the case of a child born  
9 outside the United States or a territory thereof, if the  
10 prospective adoptive parents of such child have been appointed  
11 guardians of such child by a court of competent jurisdiction in  
12 a country other than the United States or a territory thereof,  
13 such parents shall file a petition as provided in this Section  
14 within 30 days after entry of the child into the United States.  
15 A petition to adopt an adult or a related child may be filed at  
16 any time. A petition for adoption may include more than one  
17 person sought to be adopted.

18           B. A petition to adopt a child other than a related child  
19 shall state:

20               (a) The full names of the petitioners and, if minors,  
21 their respective ages;

22               (b) The place of residence of the petitioners and the  
23 length of residence of each in the State of Illinois  
24 immediately preceding the filing of the petition;

25               (c) When the petitioners acquired, or intend to  
26 acquire, custody of the child, and the name and address of

1 the persons or agency from whom the child was or will be  
2 received;

3 (d) The name, the place and date of birth if known, and  
4 the sex of the child sought to be adopted;

5 (e) The relationship, if any, of the child to each  
6 petitioner;

7 (f) The names, if known, and the place of residence, if  
8 known, of the parents; and whether such parents are minors,  
9 or otherwise under any legal disability. The names and  
10 addresses of the parents shall be omitted and they shall  
11 not be made parties defendant to the petition if (1) the  
12 rights of the parents have been terminated by a court of  
13 competent jurisdiction, or (2) the child has been  
14 surrendered to an agency, or (3) the parent or parents have  
15 been served with the notice provided in Section 12a of this  
16 Act and said parent or parents have filed a disclaimer of  
17 paternity as therein provided or have failed to file such  
18 declaration of paternity or a request for notice as  
19 provided in said Section, or (4) the parent is a putative  
20 father or legal father of the child who has waived his  
21 parental rights by signing a waiver as provided in  
22 subsection S of Section 10;

23 (g) If it is alleged that the child has no living  
24 parent, then the name of the guardian, if any, of such  
25 child and the court which appointed such guardian;

26 (h) If it is alleged that the child has no living

1 parent and that no guardian of such child is known to  
2 petitioners, then the name of a near relative, if known,  
3 shall be set forth, or an allegation that no near relative  
4 is known and on due inquiry cannot be ascertained by  
5 petitioners;

6 (i) The name to be given the child or adult;

7 (j) That the person or agency, having authority to  
8 consent under Section 8 of this Act, has consented, or has  
9 indicated willingness to consent, to the adoption of the  
10 child by the petitioners, or that the person having  
11 authority to consent is an unfit person and the ground  
12 therefor, or that no consent is required under paragraph  
13 (f) of Section 8 of this Act;

14 (k) Whatever orders, judgments or decrees have  
15 heretofore been entered by any court affecting (1) adoption  
16 or custody of the child, or (2) the adoptive, custodial or  
17 parental rights of either petitioner, including the prior  
18 denial of any petition for adoption pertaining to such  
19 child, or to the petitioners, or either of them.

20 C. A petition to adopt a related child shall include the  
21 information specified in sub-paragraphs (a), (b), (d), (e),  
22 (f), (i) and (k) of paragraph B and a petition to adopt an  
23 adult shall contain the information required by sub-paragraphs  
24 (a), (b) and (i) of paragraph B in addition to the name, place,  
25 date of birth and sex of such adult.

26 D. The petition shall be verified by the petitioners.

1 E. Upon the filing of the petition the petitioners shall  
2 furnish the Clerk of the Court in which the petition is pending  
3 such information not contained in such petition as shall be  
4 necessary to enable the Clerk of such Court to complete a  
5 certificate of adoption as hereinafter provided.

6 F. A petition for standby adoption shall conform to the  
7 requirements of this Act with respect to petition contents,  
8 verification, and filing. The petition for standby adoption  
9 shall also state the facts concerning the consent of the  
10 child's parent to the standby adoption. A petition for standby  
11 adoption shall include the information in paragraph B if the  
12 petitioner seeks to adopt a child other than a related child. A  
13 petition for standby adoption shall include the information in  
14 paragraph C if the petitioner seeks to adopt a related child or  
15 adult.

16 G. A petition for adoption to re-adopt a child after an  
17 intercountry adoption shall include the information specified  
18 in sub-paragraphs (a), (b), (c), (d), (e), (i) and (k) of  
19 paragraph B.

20 (Source: P.A. 97-493, eff. 8-22-11.)

21 (750 ILCS 50/13) (from Ch. 40, par. 1516)

22 Sec. 13. Interim order. As soon as practicable after the  
23 filing of a petition for adoption the court shall hold a  
24 hearing for the following purposes:

25 A. In other than an adoption of a related child or an

1 adoption through an agency, or of an adult:

2 (a) To determine the validity of the consent, provided  
3 that the execution of a consent pursuant to this Act shall  
4 be prima facie evidence of its validity, and provided that  
5 the validity of a consent shall not be affected by the  
6 omission therefrom of the names of the petitioners or  
7 adopting parents at the time the consent is executed or  
8 acknowledged, and further provided that the execution of a  
9 consent prior to the filing of a petition for adoption  
10 shall not affect its validity.

11 (b) To determine whether there is available suitable  
12 temporary custodial care for a child sought to be adopted.

13 B. In all cases except standby adoptions and re-adoptions:

14 (a) The court shall appoint some licensed attorney  
15 other than the State's attorney acting in his or her  
16 official capacity as guardian ad litem to represent a child  
17 sought to be adopted. Such guardian ad litem shall have  
18 power to consent to the adoption of the child, if such  
19 consent is required.

20 (b) The court shall appoint a guardian ad litem for all  
21 named minors or defendants who are persons under legal  
22 disability, if any.

23 (c) If the petition alleges a person to be unfit  
24 pursuant to the provisions of subparagraph (p) of paragraph  
25 D of Section 1 of this Act, such person shall be  
26 represented by counsel. If such person is indigent or an

1 appearance has not been entered on his behalf at the time  
2 the matter is set for hearing, the court shall appoint as  
3 counsel for him either the Guardianship and Advocacy  
4 Commission, the public defender, or, only if no attorney  
5 from the Guardianship and Advocacy Commission or the public  
6 defender is available, an attorney licensed to practice law  
7 in this State.

8 (d) If it is proved to the satisfaction of the court,  
9 after such investigation as the court deems necessary, that  
10 termination of parental rights and temporary commitment of  
11 the child to an agency or to a person deemed competent by  
12 the court, including petitioners, will be for the welfare  
13 of the child, the court may order the child to be so  
14 committed and may terminate the parental rights of the  
15 parents and declare the child a ward of the court or, if it  
16 is not so proved, the court may enter such other order as  
17 it shall deem necessary and advisable.

18 (e) Before an interim custody order is granted under  
19 this Section, service of summons shall be had upon the  
20 parent or parents whose rights have not been terminated,  
21 except as provided in subsection (f). Reasonable notice and  
22 opportunity to be heard shall be given to the parent or  
23 parents after service of summons when the address of the  
24 parent or parents is available. The party seeking an  
25 interim custody order shall make all reasonable efforts to  
26 locate the parent or parents of the child or children they

1           are seeking to adopt and to notify the parent or parents of  
2           the party's request for an interim custody order pursuant  
3           to this Section.

4           (f) An interim custody order may be granted without  
5           notice upon presentation to the court of a written  
6           petition, accompanied by an affidavit, stating that there  
7           is an immediate danger to the child and that irreparable  
8           harm will result to the child if notice is given to the  
9           parent or parents or legal guardian. Upon making a finding  
10          that there is an immediate danger to the child if service  
11          of process is had upon and notice of hearing is given to  
12          the parent or parents or legal guardian prior to the entry  
13          of an order granting temporary custody to someone other  
14          than a parent or legal guardian, the court may enter an  
15          order of temporary custody which shall expire not more than  
16          10 days after its entry. Every ex parte custody order  
17          granted without notice shall state the injury which the  
18          court sought to avoid by granting the order, the  
19          irreparable injury that would have occurred had notice been  
20          given, and the reason the order was granted without notice.  
21          The matter shall be set down for full hearing before the  
22          expiration of the ex parte order and will be heard after  
23          service of summons is had upon and notice of hearing is  
24          given to the parent or parents or legal guardian. At the  
25          hearing the burden of proof shall be upon the party seeking  
26          to extend the interim custody order to show that the order

1           was properly granted without notice and that custody should  
2           remain with the party seeking to adopt during the pendency  
3           of the adoption proceeding. If the interim custody order is  
4           extended, the reasons for granting the extension shall be  
5           stated in the order.

6           C. In the case of a child born outside the United States or  
7           a territory thereof, if the petitioners have previously been  
8           appointed guardians of such child by a court of competent  
9           jurisdiction in a country other than the United States or a  
10          territory thereof, the court may order that the petitioners  
11          continue as guardians of such child.

12          D. In standby adoption cases:

13                 (a) The court shall appoint a licensed attorney other  
14                 than the State's Attorney acting in his or her official  
15                 capacity as guardian ad litem to represent a child sought  
16                 to be adopted. The guardian ad litem shall have power to  
17                 consent to the adoption of the child, if consent is  
18                 required.

19                 (b) The court shall appoint a guardian ad litem for all  
20                 named minors or defendants who are persons under legal  
21                 disability, if any.

22                 (c) The court lacks jurisdiction to proceed on the  
23                 petition for standby adoption if the child has a living  
24                 parent, adoptive parent, or adjudicated parent whose  
25                 rights have not been terminated and whose whereabouts are  
26                 known, unless the parent consents to the standby adoption

1           or, after receiving notice of the hearing on the standby  
2           adoption petition, fails to object to the appointment of a  
3           standby adoptive parent at the hearing on the petition.

4           (d) The court shall investigate as needed for the  
5           welfare of the child and shall determine whether the  
6           petitioner or petitioners shall be permitted to adopt.

7           (Source: P.A. 90-14, eff. 7-1-97; 90-349, eff. 1-1-98; 91-572,  
8           eff. 1-1-00.)