



Court Jurisdiction and Venue for Adoption Petitions

Adoption is a process for making a child a permanent member of a family other than the child's birth family.¹ This legal process falls under the jurisdiction of a court of law in the State where the adoption occurs.

Jurisdiction

In each State, different courts are designated to hear specific types of cases. That designation is

¹ The adopted person is not always a child. For more information, see Child Welfare Information Gateway's *Who May Adopt, Be Adopted, or Place a Child for Adoption?* at www.childwelfare.gov/systemwide/laws_policies/statutes/parties.cfm.

Electronic copies of this publication may be downloaded at www.childwelfare.gov/systemwide/laws_policies/statutes/jurisdiction.cfm

To find statute information for a particular State, go to www.childwelfare.gov/systemwide/laws_policies/search/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at www.childwelfare.gov/systemwide/laws_policies/statutes/jurisdictionall.pdf

Examples of Jurisdiction

what is meant by the term “jurisdiction.” For example, criminal cases will be tried in a State criminal court. Adoption is a civil procedure, and at the State level, certain civil courts are given jurisdiction over adoption cases. A person who seeks to adopt a child must file his or her petition for adoption with the appropriate court.

All 50 States, the District of Columbia, Puerto Rico, and the U.S. territories of American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands specify in their statutes one or more types of court that have jurisdiction over adoption cases.

State courts are organized in a hierarchy that includes both of the following:

- Courts of original jurisdiction, where cases are first heard
- Appellate courts, which hear cases that have been appealed from lower courts

The names given to these courts vary from State to State. All adoption cases commence with a petition filed with the appropriate court of original jurisdiction.

The type of court designated as the court of original jurisdiction for adoption cases in each State reflects the organization of that State’s court system. Names given to these courts include:

- Circuit court, used in 10 States²
- District court, used in 8 States and 2 territories³
- Superior court, used in 7 States, 2 territories, and the District of Columbia⁴
- Probate court, used in 8 States⁵

² Arkansas, Florida, Illinois, Kentucky, Michigan, Missouri, Oregon, South Dakota, Virginia, and West Virginia.

³ Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Wyoming, American Samoa, and Puerto Rico.

⁴ Alaska, Arizona, California, Georgia, New Jersey, North Carolina, Washington, Guam, and the Virgin Islands.

⁵ Alabama, Connecticut, Indiana, Maine, Massachusetts, New Hampshire, Ohio, and Vermont.

- Family court, used in 5 States⁶
- Juvenile court, used in 3 States⁷

Some other names used are equity (Maryland), chancery (Mississippi), court of common pleas (Pennsylvania), county (Nebraska and Wisconsin), trial (Northern Mariana Islands), and court of first instance (Puerto Rico).

In some States, more than one court may have jurisdiction over adoption cases. In those States, either court designated in statute may hear an adoption petition. For example, in Iowa, either the juvenile or district court has jurisdiction, while in New York, either the family court or surrogate's (probate) court has jurisdiction. Either the chancery or circuit court has jurisdiction in Tennessee, while in Texas, a district court, juvenile court, or other court having jurisdiction of a suit affecting the parent-child relationship can hear an adoption petition.

In some States, other courts may have jurisdiction over an adoption case under specific circumstances. For example, in six States (Alabama, California, Georgia, Massachusetts, Nebraska, and Utah), the juvenile court will have jurisdiction if the child to be adopted has previously been placed under that court's supervision or if that court handled the case of termination of the parent's rights. In Nevada and New Mexico, if the child to be adopted is an Indian child, a Tribal court may have jurisdiction over the case. The trial division of the high court has jurisdiction over contested adoptions in American Samoa.

Venue

Venue refers to the geographic location of the court that will hear the case. Most States, Puerto Rico, and the Virgin Islands maintain courts of all types located in different counties or districts throughout the State or territory.⁸ Petitions for adoption are filed in the type of court that has the appropriate jurisdiction at the location (or venue) that is convenient to the parties involved in the case. In many cases, there is a residency requirement. Venue options include the county where the

⁶ Delaware, Hawaii, New York, Rhode Island, and South Carolina.

⁷ Colorado, Louisiana, and Minnesota.

⁸ Rhode Island, the District of Columbia, American Samoa, Guam, and the Northern Mariana Islands, due to their small geographic areas, have one court that handles adoption petitions. For this reason, the statutes do not specify venue.

person seeking to adopt (petitioner) and/or the child to be adopted reside, or where the child-placing agency is located.

Note: Adoptions that involve more than one State can be more complex and may be subject to the provisions of the Uniform Child Custody Jurisdiction Act (UCCJA) or the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).⁹ These situations are beyond the scope of this publication. An attorney experienced with a State's adoption laws and interstate placements can assist a person seeking to adopt in drafting the adoption petition and making sure that the petition is filed with the court having the appropriate jurisdiction and venue.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

⁹ For background on the provisions of UCCJEA, see Patricia M. Hoff's "The Uniform Child Custody Jurisdiction and Enforcement Act," *Juvenile Justice Bulletin* (December 2001), available at www.ncjrs.gov/pdffiles1/ojdp/189181.pdf.