



**STATE STATUTES**  
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# Court Jurisdiction and Venue for Adoption Petitions

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Adoption is a legal process for making a child a permanent member of a family other than the child's birth family. Jurisdiction refers to the type of court that hears adoption cases. Venue refers to the geographic location of the court.

## JURISDICTION

In each State, different courts are designated by statute with the responsibility to hear certain types of cases. That designation is what is meant by the term "jurisdiction." For example, criminal cases are tried in State criminal courts. Adoption is a civil procedure, and at the State level, certain civil courts are given authority to hear adoption cases. A person who seeks to adopt a child must file their petition for adoption with the appropriate civil court.<sup>1</sup>

<sup>1</sup> In the case of adopting a child from foster care, the court having jurisdiction over the adoption petition may be the juvenile court that terminated the birth parents' parental rights, or a different court may have jurisdiction.

## WHAT'S INSIDE

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All 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands specify in their statutes one or more types of courts 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 "originate," that is where they are submitted and first heard
- Appellate courts, which review cases that have been appealed from lower courts' decisions

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

## EXAMPLES OF 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 the following:

- Circuit court, used in nine States<sup>2</sup>
- District court, used in eight States and American Samoa<sup>3</sup>

- Superior court, used in seven States, the District of Columbia, Guam, and the Virgin Islands<sup>4</sup>
- Probate court, used in eight States<sup>5</sup>
- Family court, used in five States<sup>6</sup>
- Juvenile court, used in four States<sup>7</sup>

Some other names used are equity (Maryland), chancery (Mississippi and Tennessee), court of common pleas (Pennsylvania), county (Nebraska and Wisconsin), trial (Northern Mariana Islands), and the specialized family part of the court of first instance (Puerto Rico).<sup>8</sup>

In some States, other courts may have jurisdiction over an adoption case under specific circumstances. For example, in six States,<sup>9</sup> the juvenile court has 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 parents' rights. Five States' statutes<sup>10</sup> provide that if the child to be adopted is an Indian child, jurisdiction over the case may be transferred to the appropriate Tribal court. In cases of Indian children, the Federal Indian Child Welfare Act also implicates jurisdiction.<sup>11</sup>

In some States, more than one court may have jurisdiction over adoption cases. In those States, any court designated in statute may hear an

<sup>2</sup> Florida, Illinois, Kentucky, Michigan, Missouri, Oregon, South Dakota, Virginia, and West Virginia

<sup>3</sup> Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oklahoma, and Wyoming

<sup>4</sup> Alaska, Arizona, California, Georgia, New Jersey, North Carolina, and Washington

<sup>5</sup> Alabama, Arkansas, Connecticut, Indiana, Maine, Massachusetts, New Hampshire, and Ohio

<sup>6</sup> Delaware, Hawaii, New York, Rhode Island, and South Carolina

<sup>7</sup> Colorado, Iowa, Louisiana, and Minnesota

<sup>8</sup> In addition, in some States, the court of original jurisdiction for adoption proceedings may be a division of a court of more general jurisdiction. For example, in Michigan, the family division of the circuit court has jurisdiction over adoptions. In New Mexico, jurisdiction over adoption petitions lies with the children's court division of the district court, while in Missouri, the juvenile division of the circuit court has jurisdiction over adoption proceedings. In Vermont, adoption cases are handled by the probate division of the superior court.

<sup>9</sup> Arkansas, California, Massachusetts, Nebraska, Tennessee, and Utah

<sup>10</sup> Kansas, Nevada, New Mexico, Oregon, and Wisconsin

<sup>11</sup> See, 25 U.S. Code § 1911 et. seq

adoption petition. For example, in Iowa, either the juvenile or county court may have jurisdiction. 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 may hear an adoption petition.

## VENUE

Venue refers to the geographic location of the court that will hear the case. Most States and the Virgin Islands maintain courts of all types located in counties or districts throughout the State or territory.<sup>12</sup> 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 States, venue includes the county in which the person seeking to adopt (petitioner) resides<sup>13</sup> or is in military service.<sup>14</sup> Venue also may be the county in which the child to be adopted resides<sup>15</sup> or where the child-placing agency that has legal custody of the child is located.<sup>16</sup> Other venue options include the county where parental rights were terminated<sup>17</sup> or the county in which the placing birth parent(s) live.<sup>18</sup> In Illinois and Nevada, an adoption petition may be filed in any county in the State. In Oregon, venue lies in the Oregon county with which the

child has the most significant connection or in which the licensed adoption agency is located.

**Note:** Adoptions in which the child and the adopting parents live in different States can be more involved, and in those cases the court supervising the placement may be different from the one listed in this publication. Most cases are subject to the provisions of the Interstate Compact on the Placement of Children (ICPC), which is an agreement among all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. The ICPC provides for the movement and safe placement of children between States when the children are in the custody of a State or being placed for private/independent adoption.<sup>19</sup>

## SUGGESTED CITATION:

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<sup>12</sup> Due to their small geographic areas, Rhode Island, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, and Puerto Rico have one court that handles adoption petitions. For this reason, their statutes do not specify venue.

<sup>13</sup> In 43 States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming

<sup>14</sup> In 10 States: Alabama, Alaska, Arkansas, Georgia, Hawaii, Kansas, Kentucky, North Dakota, Ohio, and South Carolina

<sup>15</sup> In Massachusetts, New York, South Carolina, and Utah, the county where the child resides is the required venue when the adopting parent is a nonresident of the State. In the following 27 States, venue may be the county in which the child resides: Alabama, Alaska, Arizona, Arkansas, California, Georgia, Hawaii, Indiana, Iowa, Kansas, Maine, Maryland, Michigan, Mississippi, Missouri, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Vermont, and Wisconsin.

<sup>16</sup> In 26 States: Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Indiana, Kansas, Maine, Maryland, Minnesota, New Jersey, New York (if the adopting parent is a nonresident), North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina (if the adopting parent is a nonresident), Tennessee, Vermont, Virginia, and Washington

<sup>17</sup> In nine States: Florida, Louisiana, Maine, Michigan, New Hampshire, New York, Oklahoma, Utah, and Wisconsin

<sup>18</sup> In four States: Missouri, Ohio, Pennsylvania, and Utah (if the adopting parent is a nonresident)

<sup>19</sup> For more information, visit the website of the [Association of Administrators of the Interstate Compact on the Placement of Children](https://www.icpc.org/).

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 agency regulations, case law, and informal practices and procedures.



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