

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

GUIDE FOR ADOPTIVE PARENTS IN RETAINING AN ADOPTION ATTORNEY

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You will need an attorney to represent you as you adopt your foster child who is in the care of DCFS. As an adoptive parent, you will choose your own attorney. The following information on your rights and responsibilities is provided so that you can make an informed decision on which adoption attorney to hire and what to expect from her or him.

First, you should know that:

- **If you want DCFS to pay your adoption attorney directly, on your behalf, you must choose an attorney who is on the DCFS Statewide Adoption Attorney Panel.**
- **If the attorney is on the DCFS Adoption Attorney Panel, she or he cannot charge you any fees or court costs. All the fees & costs will be paid by the adoption subsidy.**
- **If you choose an adoption attorney who is not on the Panel, you will need to pay your attorney yourself. After you have paid your attorney, you can then submit proof of payment and a request to DCFS to be reimbursed. This should be done as soon as possible after the adoption is finalized, to avoid the possibility of having to go through the Court of Claims process. You will receive reimbursement from DCFS, up to the maximum amount of \$1500 per child. The reimbursement process usually takes several months.**
- If your attorney is on the Statewide Panel, she/he must review your adoption subsidy agreement with you before the adoption is finalized. Your attorney can also negotiate subsidy changes, if needed. All your questions about adoption and the subsidy should be answered.

Under what circumstances will DCFS pay for your legal fees and costs?

- When the child is in the care of DCFS and will be receiving a subsidy, you are entitled to payment of non-recurring reasonable and necessary adoption fees, court costs and attorney fees directly related to the adoption of a child with special needs. DCFS can pay up to a maximum of \$1,500 for legal fees and court costs for each adopted child.

You can get a Statewide Adoption Attorney Panel list by calling the DCFS Advocacy Office for Children and Families at (800) 232-3798 or by checking the DCFS web site at: www.state.il.us/dcfs. Click on 'Loving Homes' then 'Adoption', then 'Legal Resources' then "Adoption Attorney Panel List."

How do you choose an adoption attorney? DCFS and private agency staff are not permitted to refer adoptive parents to specific attorneys. You are the client and you get to choose who your adoption attorney will be. If you don't already know who you want to hire, get the current list of lawyers who are on the DCFS Statewide Adoption Attorney Panel. The list is alphabetical and includes the county in which the attorney is based.

- You can ask other adoptive parents who they used for their adoptions.
- Choose some names on the list and call them.
- Explain that you need an adoption attorney and that you have some questions before making a final decision.
- How many adoptions has the lawyer done in the last year? Ideally, the lawyer will have done at least a few.

- In which county does the attorney usually practice?
- Ask the lawyer to explain the adoption process.
- If the lawyer doesn't return your calls within a day or so, cross him or her off the list.
- The bottom line is that you want someone who is experienced and responsive to you.

The DCFS Adoption Attorney Panel is comprised of attorneys who have experience in adoption cases and who meet the following criteria. They have:

- A license in good standing to practice law in Illinois;
- Not been disciplined by the Attorney Registration and Disciplinary Commission within the past five years;
- Malpractice insurance coverage;
- At least three years of practice as an attorney;
- Completed Department sponsored training on reviewing adoption subsidies.

What exactly should you expect an attorney to do for you in an adoption proceeding? Your attorney will:

- Gather and complete the necessary legal documents (the supporting material will be provided to your attorney by your caseworker and agency) so that your case can be filed in court.
- Draft your case pleadings. You and your attorney will agree on a date and time to file the Petition for Adoption and Interim Order.
- Review the adoption subsidy with you and negotiate any needed changes. This review must occur before DCFS approves your subsidy and before the Court enters the Final Judgment in your adoption. This conference can be conducted in person or by telephone conference. If you are adopting with a spouse or partner, both of you must review the subsidy with the attorney.
- Meet you at adoption court on the agreed upon date and time, and she/he will accompany you as you go through the process of making your court appearance.
- Move your case forward in a timely way. Once DCFS has consented to the adoption and your subsidy is approved, it should be possible to get into court and have the adoption finalized fairly quickly.
- If you are not happy with how your attorney is representing you in your case, put your concerns in writing to your attorney.

What is the process for payment of legal fees by DCFS?

- If the attorney is on the DCFS Statewide Adoption Attorney Panel, the Department will act as a fiscal agent on your behalf, and will pay the attorney directly for reasonable and necessary fees and costs for legal services provided to you.
- If, however, you select an attorney who is **not** on the DCFS Adoption Attorney Panel list, DCFS will reimburse you directly, up to the maximum of \$1500 per adopted child. You may obtain this payment by submitting your paid bill to your regional DCFS post adoption unit.

You are the client. Communicate with your attorney! Your adoption attorney doesn't work for DCFS.

If you are not happy with the way your attorney is handling your case, put your concern in writing to your attorney. You have a right to file a complaint with the Illinois Attorney Registration and Disciplinary Commission or to fire him or her and hire another attorney. As the adoptive parent, you should be mindful that if you do fire your attorney and change to a different attorney, you may be liable for payment of fees to your first attorney. Be sure to notify both attorneys in writing that you have changed attorneys if such a decision is made.