

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

GUIDE FOR ADOPTIVE PARENTS IN RETAINING AN ADOPTION ATTORNEY

You will need an attorney to represent you as you adopt your foster child who is under the guardianship of DCFS. It is your right as an adoptive parent to 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 him or her.

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 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 a request to DCFS to be reimbursed. You will receive reimbursement from DCFS, up to the maximum amount of \$1500 per child.**
- **If your attorney is on the Statewide Panel, she/he must review your adoption subsidy agreement with you before the adoption is finalized.**

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

- When the child is a ward 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. Total fees and costs for an adopted child may not exceed \$1,500 as provided in Department rule.

How do you choose an adoption attorney?

DCFS and private agency staff are not permitted to refer adoptive parents to specific attorneys. If you are directed by a DCFS or private agency staff person to use a specific attorney, please report this information to the DCFS Advocacy Office at the phone number listed below.

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 list of lawyers who are on the DCFS Statewide Adoption Attorney Panel. The list is divided into regions, so you should look at the list of lawyers in your region.

- 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.
 - 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.

- You want someone who is experienced and responsive to you.

The Department has developed a list of attorneys who have experience in adoption cases and who meet the following criteria:

- Have a license in good standing to practice law in Illinois;
- Have not been disciplined by the Attorney Registration and Disciplinary Commission within the past five years;
- Have malpractice insurance coverage;
- Have at least three years of practice as an attorney;
- Have 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:

- Complete the necessary 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 & time to file the Petition for Adoption and Interim Order.
- Review the adoption subsidy with you. This review should occur after you have reviewed the subsidy with your caseworker or adoption worker, and before the date the final judgment is entered in your adoption and can be conducted in person or by telephone conference.
- Meet you at adoption court on the agreed upon date & time, and she/he will accompany you as you go through the process of making your court appearance.
- Should move your case forward in a timely way. If DCFS has consented to the adoption and approved your subsidy, 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, it is best to put your concerns in writing to your attorney.

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/dcf.

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. You have a right to see the invoice that is submitted to DCFS and may request that your attorney send a copy to you.

If you are not happy with the way your attorney is handling your case, 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. Be sure to notify both attorneys that you have changed attorneys if such a decision is made.

- As the adoptive parent, you should be mindful that if you do fire your attorney or change to a different attorney, you might be liable for payment of fees to your first attorney.