



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 26, 2013

Title	Agenda Item Type
Family Law: Rules and Forms for Domestic and Intercounty Adoptions	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt Cal. Rules of Court, rules 5.490, 5.491, and 5.492; adopt form ADOPT-216; and revise forms ADOPT-200 and ADOPT-215	July 1, 2013
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	April 2, 2013
Hon. Kimberly J. Nystrom-Geist, Cochair	Contact
Hon. Dean T. Stout, Cochair	Chris Cleary
	christine.cleary@jud.ca.gov
	415-865-8792

Executive Summary

The Family and Juvenile Law Advisory Committee recommends adopting three rules of court and one Judicial Council form to clarify the requirements for courts conducting adoptions under the Hague Adoption Convention and revising two additional Judicial Council forms for use in all adoption proceedings. Revisions to the affected forms are also needed to conform to new legislation: Assembly Bill 687, which allows the court to issue orders of adoption nunc pro tunc in certain cases; and Assembly Bill 1757, which amends and adds sections relating to adoption in the Family Code. The committee also recommends revisions in response to many suggestions received from courts and other users to make the forms both easier to use and more comprehensive.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2013, adopt California Rules of Court, rules 5.490, 5.491, and 5.492, and *Verification of Compliance with Hague Adoption Convention Attachment* (form ADOPT-216) to assist courts conducting adoptions under the Hague Adoption Convention; and revise *Adoption Request* (form ADOPT-200) and *Adoption Order* (form ADOPT-215) to conform to statutory changes and promote ease of use.

Previous Council Action

The two forms proposed for revision, *Adoption Request* (ADOPT-200) and *Adoption Order* (ADOPT-215), were first adopted by the Judicial Council in October 1998 as part of a proposal for mandatory uniform adoption forms for all minor children subject to adoption proceedings. The forms were revised in October 1999 in response to feedback from users to better meet the needs of courts, practitioners, and petitioners.

The forms were again revised in April 2000 to facilitate the provision of information about the Adoption Assistance Program to adoptive parents. And they were revised in April 2001 to provide information on post-adoption contact. In November 2002, the forms were further revised to adopt plain language and to comply with Assembly Bill 25, which included provisions allowing domestic partners to adopt a partner's child using the stepparent adoption process. These plain-language forms were again revised in October 2003 to incorporate feedback from users and improve the effectiveness and ease of use of the forms.

In October 2006, the forms were again revised: (1) to alert self-represented adoptive parents to the need for termination of parental rights proceedings before an adoption can be finalized, and (2) to bring the forms into compliance with requirements of the Government Code extending the rights and duties of marriage to persons registered as domestic partners.

Finally, the forms were revised again in April 2010 to implement the provisions of Assembly Bill 1325, tribal sponsored legislation allowing the adoption of Indian children who are dependents of the court through the custom, traditions, or law of the child's tribe without requiring termination of parental rights. That proposal included the revision of *How to Adopt a Child in California* (form ADOPT-050) to list certain forms necessary to file with the adoption request to let the court know that an inquiry into the child's possible Indian ancestry had been made. Those revised forms have been in effect since July 1, 2010.

Rationale for Recommendation

Three new rules of court and a new Judicial Council form are needed to clarify the requirements for courts conducting adoptions under the Hague Adoption Convention. Revisions to two Judicial Council forms for use in adoption proceedings are also needed to conform to new legislation: Assembly Bill 687, which allows the court to issue orders of adoption nunc pro tunc in certain cases; and Assembly Bill 1757, which amends and adds sections that affect adoptions

to the Family Code. Other proposed changes respond to many suggestions received from courts and other users to make the forms both easier to use and more comprehensive.

The new rules and form would benefit the judicial branch, along with attorneys and self-represented litigants who use them, by making them consistent with current law and by clarifying them to make them more effective and user friendly.

Assembly Bill 687

Effective January 1, 2012, AB 687¹ added section 8601.5 to the Family Code to permit the court to issue an order of adoption nunc pro tunc “when it will serve public policy and the best interests of the child, such as cases where adoption finalization has been delayed beyond the child’s 18th birthday due to factors beyond the control of the prospective adoptive family and the proposed adoptee.” (Fam. Code, § 8601.5(a).) A request for a nunc pro tunc order must be stated in the adoption request or on an amendment to the request and needs to include facts in support of such an order. While not explicitly noted in the legislation, it is reasonable to conclude that the nunc pro tunc order should be reflected in the adoption order as well.

Assembly Bill 1757

In addition, AB 1757² amended and added sections relating to adoption in the Family Code and the Probate Code, effective January 1, 2013. As it affects this proposal, the bill did the following: (1) added section 8700.5 to the Family Code to provide a mechanism for a relinquishing parent to sign a waiver of the right to revoke that relinquishment; and (2) revised and consolidated the Family Code provisions addressing the venue where an adoption petition may be filed (without altering the venue provisions for the adoption of dependent children). This proposal includes a recommendation to amend form ADOPT-200 to specifically include a section that addresses venue and jurisdiction.

Hague Adoption Convention compliance

The Hague Adoption Convention (Convention or HAC)³ is a treaty that entered into force with respect to the United States on April 1, 2008. The HAC strengthens protections for children, birth parents, and prospective adoptive parents and establishes internationally agreed-upon rules and procedures for adoptions between countries that have a treaty relationship under the HAC. It provides a framework for member countries to work together to ensure that children are provided with permanent, loving homes; that every adoption is in the best interest of the child; and that the abduction, sale, or traffic of children is prevented.

¹ Assembly Bill 687 (Stats. 2011, ch. 462), www.leginfo.ca.gov/pub/11-12/bill_asm/ab_0651-0700/ab_687_bill_20111004_chaptered.pdf (as of Mar. 12, 2013).

² Assembly Bill 1757 (Stats. 2012, ch. 638), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1757&search_keywords= (as of Mar. 12, 2013).

³ Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption, www.hcch.net/index_en.php?act=conventions.text&cid=69 (as of Mar. 12, 2013).

In 2007, Senate Bill 703 (Stats. 2007, ch. 583) codified part of the HAC in California by adding sections 8900.5, 8921, 8923, 8924, and 8925 to the Family Code. Those sections do not, however, provide the procedural guidance needed by the state courts to make the required findings for compliance with the HAC requirements in outgoing HAC cases. Nor do they address the requirements for incoming cases from other countries that are parties to the HAC.

In connection with its proposal to revise *Adoption Request* (form ADOPT-200) and *Adoption Order* (form ADOPT-215), the Family and Juvenile Law Advisory Committee sought comment in the spring 2012 cycle from those who had experience in intercountry adoptions and who may have created or worked with local forms intended to ensure compliance with the HAC. It received a local court form used in San Diego. In addition, the committee reviewed rules adopted by the New Jersey court system and carefully studied the HAC, the federal Intercountry Adoption Act of 2000,⁴ and the Code of Federal Regulations⁵ requirements imposed on state courts. The proposed rules and form summarize the procedures necessary for state courts to follow when conducting an intercountry adoption under the Hague Adoption Convention and an intercountry adoption of a U.S. resident when the receiving country is not a party to the Convention.

Two of the proposed rules, rules 5.491 and 5.492, did not circulate for comment. Rule 5.491 provides that California law applies to adoptions of children residing in the U.S. who are being adopted by residents of countries that are not parties to the Convention. Rule 5.492 informs parties seeking incoming adoptions that it is the responsibility of the petitioner to present the California court with a Hague Custody Declaration indicating that the required findings have been made in the child's country of residence.⁶ Both of the new rules were drafted in response to comments and both are statements of existing law. The committee recommends that they be adopted without circulation as minor substantive changes unlikely to create controversy under rule 10.22(d)(2). Rule 5.490 and form ADOPT-216 could go forward without the inclusion of rules 5.491 and 5.492, but without the clarification that those additional two rules provide, court users might experience some confusion, which could lead to extra work for court personnel.

Additional justification

In addition to these legislatively driven changes, other revisions are based on requested changes to adoption forms submitted in prior invitations to comment or through individual requests from those experienced in using the forms. Some of these requests apply to forms ADOPT-200 and ADOPT-215, which need revision to reflect the recent legislation, and fulfilling these requests

⁴ Pub. L. No. 106-279 (Oct. 6, 2000), 114 Stat. 825, *codified at* 42 U.S.C. §§ 14901–14954.

⁵ 22 CFR part 96; 22 C.F.R. § 97.3.

⁶ See Hague Adoption Convention, arts. 16 & 17, www.hcch.net/index_en.php?act=conventions.text&cid=69 (as of Mar. 12, 2013).

would make the forms more effective and helpful to the courts and the parties. In response to these requests, parts of forms ADOPT-200 and ADOPT-215 would also be reorganized and reworded to clarify or correct sections that have caused confusion to form users.⁷

Proposed New Rules

The following new rules are proposed:

Rule 5.490. This rule addresses the following:

- The applicability of the rule to any adoption involving a child who is a U.S. resident who is being (or has been) moved to another country that is a party to the Hague Adoption Convention (HAC);
- The requirement that the adoption request must allege facts about the applicability of the HAC and that the court must determine whether the HAC applies in the country where the child will be residing;
- The evidence that must be received by the state court to verify compliance with the HAC;
- The findings that must be made by the state court to meet the requirements for the petitioner to qualify for a Hague Adoption Certificate or a Hague Custody Declaration;
- The findings that the state court must make if it is satisfied that all of the HAC requirements have been made; and
- That the petitioner must declare an intent to finalize the adoption in California or in petitioner's country of residence.

Rule 5.491. This rule confirms that when a child who is a resident of the United States is adopted by a resident of a country that is not a party to the Hague Adoption Convention, the adoption will proceed under the law governing California adoptions. This rule did not circulate for comment because it was created in response to a suggestion submitted during the comment period to clarify that California law applies to an adoption if the receiving country is not a party to the HAC. This is a minor substantive change that is unlikely to create controversy under California Rules of Court, rule 10.22(d)(2).

Rule 5.492. This rule confirms that it is the responsibility of the adopting parent(s) to obtain a Hague Custody Declaration with all the required findings from the child's country of residence to present to the California court to prove that the adoption meets the requirements of the Convention. This rule did not circulate for comment as it was created in response to a suggestion

⁷ The committee had also intended to include language mandated by AB 792 in the adoption request (form ADOPT-200), expecting that language to be available by mid-January 2013. However, that mandated language, which will provide specified notice informing the petitioner and respondent that they may be eligible for reduced-cost coverage through the California Health Benefit Exchange or no-cost coverage through Medi-Cal currently is not expected to be available until after July 1, 2013, so will be added as part of a technical change proposal in a future cycle.

and is a minor substantive change that is unlikely to create controversy under California Rules of Court, rule 10.22(d)(2).

Proposed New Form

One new mandatory form, form ADOPT-216 is proposed:

This form is intended to provide the court with all of the necessary information, findings, verifications, and orders that it needs to comply with the requirements of the Hague Adoption Convention as set forth in Code of Federal Regulations section 97.3. The form addresses these requirements as follows:

- The first section is for the adopting parent(s) to fill out, which includes critical information that the court needs to assure that the adoption is subject to the Hague Adoption Convention (HAC);
- The second section includes the required state court findings before the adoption can proceed;
- The next section lists all of the evidence that the state court is required to verify to ensure compliance with the HAC; and
- The last section offers the court the choice of ordering a final adoption or ordering final custody in cases where the adoption will be completed in the country that is receiving the child.

Proposed revisions to existing forms

Form ADOPT-200. Proposed changes to this form include the following:

- Item 2 has been added to the form to provide the court with necessary venue/jurisdiction information from AB 1757 changes.
- Under item 3, the check box for “Relative” has been removed and check boxes for “Agency” and “Independent” have been modified to include subcategories for “Relative” and “Nonrelative.” This responds to suggestions from the California Department of Social Services noting that the “Relative” box is causing the department problems because it is not a “type” of adoption, but rather, relative adoptions are either “Independent” or “Agency” adoptions. Item 3 also includes a new checkbox for adoptions that may be subject to the Hague Adoption Convention, and “international” adoption has been changed to “intercountry” adoption to be consistent with federal and state legislation addressing the Hague Adoption Convention.
- The reference to “a relative” adoption was dropped from item 5 (former item 4) for the reasons noted above.
- Under item 8 (former item 7), the section has been modified to clarify that *Indian Child Inquiry Attachment* (form ICWA-010(A)) and *Parental Notification of Indian Status*

(form ICWA-020) must be filed in every adoption. This responds to some apparent confusion that resulted in forms ICWA-010(A) and ICWA-020 being left off of adoption requests. Item 8b has been clarified to indicate that form ADOPT-220 should be attached if after notice it has been determined that ICWA applies.

- Item 10 (former item 9) has been revised so sub item “a” complies with the actual language of the law, changes sub item “b” to comply with the language of AB 1757 about the expiration or waiver of the right to revoke, and adds sub item “d” for Hague Adoption Convention allegations.
- Item 11a (former item 10a) has been modified to clarify the language.
- Former items 14 through 19 have been combined into one item 15 with the heading **“Consent for adoption is not necessary because (complete all sections that apply to your adoption):”** Former items 14 through 18 all applied to various issues involving consent to adoption. This combined section should clarify the various means available to dispense with consent.
- In item 15(b), formerly item 15, the following statement has been added under the “Name” lines: *“Enter the date of the court order ending parental rights and attach a copy of the order.”* There have been complaints that it is unclear what date is needed and that the termination of parental rights must be completed before the adoption can be granted, leading to extra work for social workers who have to contact petitioners to make needed corrections.
- Item 15(e) (formerly item 18) now clarifies that the operative statute is stated in the conjunctive: “[E]ach of the following persons with parental rights has not contacted the child and has not paid for the child’s care, support, and education for one year or more when able to do so.” This proposed change clarifies that consent can be dispensed with where for one year or more there has been a failure to communicate **and** a failure to pay for the child’s care, support, and education when able to do so. (Fam. Code, § 8604(b).) Second, item 15(f) is a new statement on dispensing with consent under the provisions of Family Code section 7822(a), related to proof of abandonment.
- Under item 15(g) (formerly item 18) a new section tracks the language of Family Code section 8604(a), which dispenses with the need for consent from a presumed father when he did not become a presumed father “before the mother’s relinquishment or consent became irrevocable or the mother’s parental rights were terminated.” (Fam. Code, § 8604(a).)
- A check box has been added under item 17 (formerly item 21) following the first check box, with the text: “I/We ask the court to date its order approving the adoption as of an earlier date (*date*): _____ for the following reason:

(Enter a date no earlier than the date parental rights were ended.)

This responds to the new legislation adding section 8601.5 to the Family Code, which allows for a nunc pro tunc adoption order in certain circumstances. The legislation notes

that the request for a nunc pro tunc order should be stated in the request or attached as an amendment.

Form ADOPT-215. Proposed changes to this form include the following:

- Under item 1, “Street address” was conformed to proper Judicial Council style.
- Under item 2, “Place of birth” was amended to add “(if known):” and the line following was removed, leaving the city, state, and country lines below. This responds to comments that the line following “Place of birth” confused people who thought the name of the hospital or the address of the birth parents was required. This clarifies that the place of birth, if known, is simply the city, state, and country.
- Under item 7, the language of sub-item “a” was modified to read: “Is at least 10 years older than the child or meets the criteria in Fam. Code, § 8601(b),” which allows for adoption by a relative in appropriate cases where the age difference might be less than 10 years.
- Under item 8, the language of the first check box has been modified as follows: “This case is an adoption by a relative petitioned under Family Code section 8714.5.” This further clarifies that “relative” is not a type of adoption, but an adoption by a relative is filed as an independent or agency adoption request.
- Under item 9, the section was corrected where a number was wrong.
- A new item 12 has been created, with a section to acknowledge and incorporate the *Verification of Compliance with Hague Adoption Convention Attachment* (form ADOPT-216) findings.
- Under item 13, a check box following the last paragraph has been added, to read: “The judge believes it will serve public policy and the best interest of the child to grant the request of the adopting parent or parents for the court to make this order effective as of (date): _____.” This change brings the form into compliance with Family Code section 8601.5, which allows for a nunc pro tunc order in certain circumstances.

Comments, Alternatives Considered, and Policy Implications

This proposal has gone through two circulations for comment. It was first circulated in spring 2012 with revisions to forms ADOPT-200 and ADOPT-215; and later in winter 2012-2013 with further revisions to ADOPT-200 and ADOPT-215, and with rule 5.490 and form ADOPT-216. The proposal that circulated in the spring 2012 cycle was substantially similar to the one that circulated in winter, but without the proposed Hague Adoption Convention rules and form. Additionally, following the spring comment period, the Governor signed AB 1757, necessitating further changes to ADOPT-200 and ADOPT-215. Further, in response to a request in the spring invitation to comment, the committee received comments and some guidance on compliance with the Hague Adoption Convention from the court in San Diego. The spring 2012 comment period also generated a number of suggestions for the forms that resulted in changes requiring public circulation before the advisory committee could recommend that the council adopt them.

Given the costs and workload ramifications of form changes, the Family and Juvenile Law Advisory Committee elected to defer the spring 2012 changes and instead circulated a new proposal, incorporating all necessary changes, in the winter 2013 cycle. The following will first review comments from the spring cycle and next review comments from winter.

Comments from spring 2012 cycle

The spring cycle invitation to comment was circulated from April 17 to June 15, 2012, to the standard mailing list for family and juvenile law proposals. Included on the lists were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, social workers, probation officers, and other family law professionals, such as family law facilitators and family court services directors, managers, supervisors, and staff. The committee also sought comment from adoption experts, including the adoption attorneys of California, the State DSS Adoption Bureau, county social services departments, and adoption-related nonprofit organizations. The committee received a total of 4 comments, with each of the commentators agreeing with the proposal if modified. None of the comments disagreed with this proposal.

Three of the commentators expressed concern with the requirement in proposed *Adoption Request* (form ADOPT-200) to attach Indian Child Welfare Act (ICWA) inquiry forms. Those forms contain identifying information about the birth parents, which adopting parents in agency adoptions are not entitled to, though they are entitled to see the adoption records. This proposal does not change the requirement to conduct an ICWA inquiry in every adoption and to attach the relevant forms. The requirement to conduct an ICWA inquiry was adopted by the Judicial Council in 2007 and the requirement to attach the forms to every adoption petition has been in place since 2010. The only related change on the proposed forms is a “reminder” in the body of the adoption petition to attach the forms. In addition, Family Code section 9200 provides a mechanism to delete any identifying information about the birth parents prior to allowing access to the adoption records. The committee declined to change the forms in response to those comments because the provisions have been in effect for years; the committee, however, will attempt to monitor any ongoing comments to determine if the concern is valid.

All of the commentators had suggestions about wording, simplifying or clarifying legal requirements, or organizing the forms and, to the extent possible, the committee accommodated these suggestions in the proposal that circulated in winter 2013.

Comments from winter 2013 cycle

The winter cycle invitation to comment was circulated from December 14, 2012, through January 25, 2013, to the standard mailing list for family and juvenile law proposals. Included on the lists were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, social workers, probation officers, and other family law professionals, such as family law facilitators and family court services directors, managers, supervisors, and staff. The committee also sought comment from adoption experts, including the adoption attorneys of California, the State DSS

Adoption Bureau, county social services departments, and adoption-related nonprofit organizations. The proposal was also sent to the U.S. Department of State.

The committee received a total of eight comments, one from the Department of Social Services, two from nonprofits with an adoption component, one from a bar association, three from courts, and one from the U.S. Department of State. One of the commentators agreed with the proposal without modification. The other seven agreed with the proposal if modified and provided thoughtful suggestions for modification. The commentator from the State Department was particularly helpful, providing suggestions to better clarify the proposed rules and form and to ensure compliance with the Hague Adoption Convention. After making revisions in response to the State Department commentator, staff sent the proposed revisions to the commentator and had two phone calls with the commentator to ensure that the proposed revisions meet the requirements of the State Department and the Hague Adoption Convention.

One commentator raised the issue that was raised by some commentators in the spring 2012 cycle, that the proposed form ADOPT-200 required that Indian Child Welfare Act (ICWA) inquiry forms be attached to the adoption request, and expressed concern that the identity of the birth parents is requested on the form. Again, since these changes have been in effect for years without reports that users failed to redact the identity of birth parents, and since Family Code section 9200 provides a mechanism to delete any identifying information about the birth parents prior to allowing access to the adoption records, the committee will continue to monitor this concern expressed by a few. The committee has consulted with tribal unit staff, who stress the importance of the ICWA process being clear in the adoption request.

Again, as during the spring cycle, many of the commentators had suggestions about wording, grammar, simplifying or clarifying legal requirements, or organizing the forms, and the committee has accommodated those comments to the extent feasible in the proposal before the council.

Alternatives considered

The committee considered proposing a separate form to request a nunc pro nunc order of adoption because the new statute, Family Code section 8601.5(b), requires that “[t]he request for nunc pro tunc entry of order shall be stated in the adoption request or an amendment thereto, and shall set forth specific facts in support thereof.” The committee, however, decided that simple amendments to the *Adoption Request* and the *Adoption Order* would alleviate the need for a new form.

The committee also considered a range of requested changes to a variety of adoption forms that had been submitted over a number of years, but, in the interest of efficiency and avoiding all but the most pressing changes, limited its proposed changes to the two forms affected by the new legislation.

Finally, the committee did not earlier recommend this proposal to bring applicable forms into compliance with the Hague Adoption Convention (which became effective in the United States in 2008) because it believed that it needed to hear from practitioners about what, if anything, was actually needed in the way of form revisions and new rules to ensure compliance.

Implementation Requirements, Costs, and Operational Impacts

The committee does not anticipate that this proposal will result in any costs to the branch other than the one-time cost of revising the forms. Nor does the committee anticipate any requirements for implementation or fiscal and operational impacts on the courts because two of the three forms are primarily prepared by court users, the form order will assist judicial officers, and this proposal does not change the law.

Relevant Strategic Plan Goals and Operational Plan Objectives

Because this proposal will provide standardized forms that ensure compliance with state legal requirements, it supports the integrity of court orders, objective A.4 of Goal III: Modernization of Management and Administration.

Attachments

1. Cal. Rules of Court, rules 5.490, 5.491, and 5.492, at pages 12–17
2. Forms ADOPT-200, ADOPT-215, and ADOPT-216, at pages 18–26
3. Chart of comments from spring 2012, at pages 27–45
4. Chart of comments from winter 2013, at pages 46–63

1 Title 5. Family and Juvenile Rules

2
3 Division 2. Rules Applicable in Family and Juvenile Proceedings

4
5 Chapter 3. Adoptions under the Hague Adoption Convention

6
7
8 **Rule 5.490. Adoption of a child resident in the United States by a resident of**
9 **a foreign country party to the Convention of 29 May 1993 on Protection**
10 **of Children and Cooperation in Respect of Intercountry Adoption**
11 **(Convention or Hague Adoption Convention)**

12
13 **(a) Purpose**

14
15 The rules in this chapter are adopted to provide practice and procedure for
16 intercountry adoptions conducted under the Hague Adoption Convention and
17 applicable California law.

18
19 **(b) Applicability of rule**

20
21 This rule applies to any adoption of a child resident in the United States by
22 an individual or individuals residing in a convention country, as defined in
23 Family Code section 8900.5(f), if, in connection with the adoption, the child
24 has moved or will move between the United States and the convention
25 country.

26
27 **(c) Adoption request and attachments**

28
29 (1) The Adoption Request (form ADOPT-200) and Verification of
30 Compliance with Hague Adoption Convention Attachment (ADOPT-
31 216) must allege specific facts about the applicability of the Hague
32 Adoption Convention and whether the petitioner is seeking a California
33 adoption, will be petitioning for a Hague Adoption Certificate, or will
34 be seeking a Hague Custody Declaration.

35
36 (2) The court must determine whether a child resident in the United States
37 has been or will be moved to a convention country in connection with
38 an adoption by an individual or individuals residing in a convention
39 country.

1
2 **(d) Evidence required to verify compliance with the Hague Adoption**
3 **Convention**
4

5 If the Hague Adoption Convention applies to the case, and the court is asked
6 to issue findings and an order supporting a request for the U.S. Department
7 of State to issue a Hague Adoption Certificate or a Hague Custody
8 Declaration for the adoption placement, the court must receive sufficient
9 evidence to conclude that the child is eligible for adoption and find that the
10 placement is in the best interest of the child. The court must receive evidence
11 of all of the following:
12

- 13 (1) The adoption agency or provider is accredited by the Council on
14 Accreditation, is supervised by an accredited primary provider, or is
15 acting as an exempted provider, as defined in Family Code section
16 8900.5(g), to provide intercountry adoption services for convention
17 cases;
18
- 19 (2) A child background study has been completed and transmitted to a
20 foreign authorized entity in accordance with the regulations governing
21 convention adoptions with proof that the necessary consents have been
22 obtained and the reason for its determination that the proposed
23 placement is in the child's best interest, based on the home study and
24 child background study and giving due consideration to the child's
25 upbringing and his or her ethnic, religious, and cultural background;
26
- 27 (3) The child is eligible for adoption under California law;
28
- 29 (4) The adoption agency or provider has made reasonable efforts, as
30 described under 22 Code of Federal Regulations section 96.54(a), to
31 place the child in the United States, but was unable to do so, or an
32 exception to this requirement applies to the case. Such reasonable
33 efforts include: (1) disseminating information on the child and his or
34 her availability for adoption through print, media, and Internet
35 resources designed to communicate with potential prospective adoptive
36 parents in the United States; (2) listing information about the child on a
37 national or state adoption exchange or registry for at least 60 calendar
38 days after the birth of the child; (3) responding to inquiries about
39 adoption of the child; and (4) providing a copy of the child background
40 study to potential U.S. prospective adoptive parent(s);
41
- 42 (5) The agency has determined that the placement is in the child's best
43 interest;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(6) A home study on the petitioner(s) has been completed, which includes:

(A) Information on the petitioner(s), such as identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, an assessment of their ability to care for the child, and the characteristics of the child for whom they would be qualified to care;

(B) Confirmation that a competent authority has determined that the petitioner is eligible and suited to adopt and has ensured that the petitioner has been counseled as necessary; and

(C) The results of criminal background checks;

(7) The Hague Adoption Convention authority designated by the receiving country has declared that the child will be permitted to enter and reside permanently or on the same basis as the adopting parent(s) in the receiving country, and has consented to the adoption;

(8) All appropriate consents have been obtained in writing in accordance with the following standards:

(A) Counseling was provided to any biological or legal parent or legal guardian consenting to the adoption;

(B) All biological or legal parents or legal guardians were informed of the legal effect of adoption;

(C) Such consent was freely given without inducement by compensation;

(D) Such consent was not subsequently withdrawn; and

(E) Consents were taken only after the birth of the child.

(9) As appropriate in light of the child's age and maturity, the child has been counseled and informed of the effects of the adoption and the child's views have been considered. If the child's consent is required, the child has also been counseled and informed of the effects of granting consent and has freely given consent expressed or evidenced

1 in writing in the required legal form without any inducement by
2 compensation of any kind;

3
4 (10) The adoption agency or provider has committed to taking all steps to
5 ensure the secure transfer of the child, including obtaining permission
6 for the child to leave the United States;

7
8 (11) The adoption agency or provider has agreed to keep the receiving
9 country’s designated Hague Adoption Convention authority informed
10 about the status of the case;

11
12 (12) The petitioner consents to adoption or has agreed to accept custody of
13 the child for purposes of adoption;

14
15 (13) The adoption agency or provider demonstrates that any contact between
16 the birth family and the adoptive family complies with applicable state
17 law and federal regulations governing the timing of such
18 communications; and

19
20 (14) The adoption agency or provider certifies that no one is deriving
21 improper financial gain from the adoption and describes the financial
22 arrangement with the prospective adoptive family.

23
24 **(e) Court findings required to support the application for a Hague**
25 **Adoption Certificate or Hague Custody Declaration**

26
27 The court must make findings relating to the application for a Hague
28 Adoption Certificate or Hague Custody Declaration from the Department of
29 State. To meet the requirements for issuance of the certificate or declaration,
30 the findings must include that:

31
32 (1) The adoption is in the child’s best interest;

33
34 (2) The substantive regulatory requirements set forth in 22 Code of Federal
35 Regulations sections 97.3(a)–(k) have been met; and

36
37 (3) The adoption services provider meets the requirements of 22 Code of
38 Federal Regulations part 96.

39
40 **(f) Court findings to verify that all Hague Adoption Convention**
41 **requirements have been met**

1 If the court is satisfied that all Hague Adoption Convention requirements
2 have been met, the court must make findings of fact and order the following:

3
4 (1) The child is eligible for adoption;

5
6 (2) The grant of custody with respect to the proposed adoption is in the
7 child's best interest; and

8
9 (3) The court grants custody of the child to the named family for purposes
10 of adoption, as applicable.

11
12 **(g) Petitioner's intent to finalize adoption**

13
14 If the adoption is not finalized in California, a petition for a Hague Custody
15 Declaration must state specific facts indicating that the petitioner intends to
16 finalize the adoption in petitioner's country of residence or that petitioner
17 will return to California after any required post-placement supervisory period
18 to finalize the adoption in a superior court of California.

19
20
21 **Advisory Committee Comment**

22
23 The Hague Adoption Convention (HAC) is a treaty that entered into force with respect to the
24 United States on April 1, 2008. The HAC strengthens protections for children, birth parents, and
25 prospective adoptive parents and establishes internationally agreed-upon rules and procedures for
26 adoptions between countries that have a treaty relationship under the HAC. It provides a
27 framework for countries party to the Convention to work together to ensure that children are
28 provided with permanent, loving homes; that adoptions take place in the best interest of a child;
29 and that the abduction, sale, or traffic of children is prevented. This rule expands procedurally on
30 Family Code sections 8900 through 8925, which address intercountry adoptions, by specifying
31 the findings and evidence set forth in 22 Code of Federal Regulations section 97.3 that are
32 required by a state court when the HAC applies to an adoption.

33
34
35 **Rule 5.491. Adoption of a child resident in the United States by a resident of**
36 **a foreign country not party to the Hague Adoption Convention**

37 The adoption of a child resident in the United States by a resident of a foreign
38 country not party to the Hague Adoption Convention must conform to the law
39 governing California adoptions.

1 **Rule 5.492. Adoption by a United States resident of a child resident in a**
2 **foreign country that is party to the Hague Adoption Convention**

3 A United States resident who plans to adopt, in California, a child resident in a
4 foreign country that is party to the Hague Adoption Convention must provide to
5 the California court the required proof, in the form of a Hague Custody
6 Declaration, that all required Hague Adoption Convention findings have been
7 made by the child's country of residence.

ADOPT-200 Adoption Request

If you are adopting more than one child, fill out an adoption request for each child.

- 1 Your name(s) (adopting parent(s)):
- a. _____
b. _____
- Relationship to child: _____
Street address: _____
City: _____ State: _____ Zip: _____
Telephone number: _____
Lawyer (if any): (Name, address, telephone numbers, and State Bar number):

2 I/We filed this Adoption Request in this court because it is in the county (check all that apply):

- Where the adopting parent(s) reside;
 Where the child was born or resides at the time of filing;
 Where an office of the agency that placed the child for adoption is located;
 Where an office of the department or public adoption agency that is investigating the petition is located;
 Where a placing birth parent or parents resided when the adoptive placement agreement, consent, or relinquishment was signed;
 Where a placing birth parent or parents resided when the petition was filed;
 Where the child was freed for adoption.

(If the child is a dependent of the court, the Adoption Request must be filed in the county where the child was freed for adoption or the county where the adopting parent(s) reside(s). See Fam. Code, § 8714.)

3 Type of adoption (check one):

- Agency (name): _____
 Relative Nonrelative
- Joinder will be filed. Joinder is being filed at same time as this Adoption Request.
- Tribal customary adoption
(attach tribal customary adoption order)
- Independent
 Relative Nonrelative
- Intercountry (name of agency): _____

This adoption may be subject to the Hague Adoption Convention (form ADOPT-216 must be filed with this request).

Stepparent

Clerk stamps date here when form is filed.

Draft
Not approved by the
Judicial Council

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

(To be completed by the clerk of the superior court if a hearing date is available.)

Hearing is set for:

Hearing Date

Date: _____

Time: _____

Dept.: _____ Room: _____

Name and address of court if different from above:

To the person served with this request: If you do not come to this hearing, the judge can order the adoption without your input.



Your name: _____

- 4** Information about the child:
- a. The child's new name will be: _____
 - b. Boy Girl
 - c. Date of birth: _____ Age: _____
 - d. Child's address (if different from yours):
 Street: _____
 City: _____ State: _____ Zip: _____
 - e. Place of birth (if known):
 City: _____
 State: _____ Country: _____
 - f. If the child is 12 or older, does the child agree to the adoption? Yes No
 - g. Date child was placed in your physical care: _____

5 Child's name before adoption (Fill out ONLY if this is an independent, stepparent, or tribal customary adoption):

- 6** Does the child have a legal guardian? Yes No
 (If yes, attach a copy of the Letters of Guardianship and fill out below):
- a. Date guardianship ordered: _____
 - b. County: _____
 - c. Case number: _____

- 7** Is the child a dependent of the court? Yes No
 (If yes, fill out below):
- Juvenile case number: _____
 County: _____

- 8** Child may have Indian ancestry: Yes No
- a. Whether you answered "Yes" or "No," you must fill out and attach *Indian Child Inquiry Attachment* (form ICWA-010(A)) and *Parental Notification of Indian Status* (form ICWA-020).
 - b. If you answered "Yes," you must also fill out and attach *Adoption of Indian Child* (form ADOPT-220) if, after notice, it is determined that ICWA does apply to the child.

- 9** Names of birth parents, if known:
- a. Mother: _____
 - b. Father: _____

- 10** If this is an agency adoption
- a. I/We have received information about the Adoption Assistance Program, the Regional Center, mental health services available through Medi-Cal or other programs, and federal and state tax credits that might be available.
 Yes No
 - b. All persons with parental rights agree that the child should be placed for adoption by the California Department of Social Services or a county adoption agency or a licensed adoption agency (Fam. Code, § 8700) and have signed a relinquishment form approved by the California Department of Social Services and the time to revoke the relinquishment has expired or been waived.
 Yes No (If no, list the name and relationship to child of each person who has not signed the relinquishment form or whose time to revoke the relinquishment has not expired or been waived):



Your name: _____

- c. This is a tribal customary adoption under Welfare and Institutions Code section 366.24. Parental rights have been modified under and in accordance with the attached tribal customary adoption order, and the child has been ordered placed for adoption. Yes No
- d. This is an adoption conducted under the requirements of the Hague Adoption Convention and the child will be moving or has already moved with the adopting parent(s) to another Hague Convention member country at the conclusion of this adoption. Yes No If yes, child will be moving or has moved to (name of country): _____ and adopting parent(s): seek(s) a California adoption will be petitioning for a Hague Adoption Certificate, or will be seeking a Hague Custody Declaration.

11 If this is an independent adoption

- a. A copy of the Independent Adoptive Placement Agreement from the California Department of Social Services is attached. (This is required in most independent adoptions; see Fam. Code, § 8802.) Yes No
- b. All persons with parental rights agree to the adoption and have signed the Independent Adoptive Placement Agreement or consent on the appropriate California Department of Social Services form. Yes No (If no, list the name and relationship to child of each person who has not signed the agreement form): _____
- c. I/We will file promptly with the department or delegated county adoption agency the information required by the department in the investigation of the proposed adoption. Yes No

12 If this is a stepparent adoption

- a. The birth parent (name): _____ has signed a consent will sign a consent
- b. The birth parent (name): _____ has signed a consent will sign a consent
- c. The adopting parents were married on or The domestic partnership was registered on (date): _____ (For court use only. This does not affect social worker’s recommendation. There is no waiting period.)

- 13 There is no presumed or biological father because the child was conceived by artificial insemination using semen provided to a medical doctor or a sperm bank. (Fam. Code, § 7613.)

14 Contact after adoption

- Contact After Adoption Agreement (form ADOPT-310) is attached will not be used
- will be filed at least 30 days before the adoption hearing is undecided at this time
- This is a tribal customary adoption. Postadoption contact is governed by the attached tribal customary adoption order.

15 Consent for adoption is not necessary because (complete all sections that apply to your adoption):

- a. The consent of the birth parent presumed father is not necessary because (check the applicable reasons under Fam. Code, § 8606):
 - (1) The parent has been judicially deprived of the custody and control of the child.
 - (2) The parent has voluntarily surrendered the right to custody and control of the child in a judicial proceeding in another jurisdiction, under a law of that jurisdiction providing for the surrender.
 - (3) The parent has deserted the child without providing information to identify the child.
 - (4) The parent has relinquished the child under Fam. Code, § 8700.
 - (5) The parent has relinquished the child for adoption to a licensed or authorized child-placing agency in another jurisdiction.



Your name: _____

- b. A court ended the parental rights of:

Name: _____ Relationship to child: _____ on (date): _____

Name: _____ Relationship to child: _____ on (date): _____

(Enter the date of the court order ending parental rights and attach a copy of the order.)

- c. The child is the subject of a tribal customary adoption order under Welf. & Inst. Code, § 366.24, which has modified the parental rights of:

Name: _____ Relationship to child: _____ on (date): _____

Name: _____ Relationship to child: _____ on (date): _____

Name: _____ Relationship to child: _____ on (date): _____

(Attach a copy of the order.)

- d. I/We will ask the court to end the parental rights of *(attach copy of Petition to Terminate Parental Rights or Application for Freedom From Parental Custody, if filed)*:

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

- e. Adopting parent has custody of the child by court order or by agreement with the other parent and each of the following persons with parental rights has not contacted the child and has not paid for the child's care, support, and education for one year or more when able to do so. (Fam. Code, § 8604(b).)

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

- f. The child has been abandoned as follows:

(1) The child has been left by the child's parent or parents with no way to identify the child.

(2) The child has been left in the custody of another person by both parents or the sole parent for six months without providing for the child's support, or without communication from the parent or parents, with the intent to abandon the child.

(3) One parent has left the child in the care and custody of the other parent for one year or longer without providing for the child's support or without communication from the parent, with the intent to abandon the child.

(If any of the above boxes were checked, adopting parent must also check item 15(d) and file an Application for Freedom from Parental Custody. See Fam. Code, § 7822(a).)

- g. The consent of the presumed father is not required because he did not become a presumed father before the mother's relinquishment or consent became irrevocable or the mother's parental rights were terminated. (Fam. Code, § 8604(a).)

- h. Each of the following persons with parental rights has died:

Name: _____ Relationship to child: _____

Name: _____ Relationship to child: _____

Your name: _____

16 Suitability for adoption

Each adopting parent:

- a. Is at least 10 years older than the child or meets the criteria in Fam. Code, § 8601(b)
- b. Will treat the child as his or her own
- c. Will support and care for the child
- d. Has a suitable home for the child and
- e. Agrees to adopt the child


I/We ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance.

I/We ask the court to date its order approving the adoption as of an earlier date (date): _____ for the following reason (Fam. Code, § 8601.5):


(Enter a date no earlier than the date parental rights were ended.)


This is a tribal customary adoption. I/We ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all of the rights and duties stated in the attached tribal customary adoption order and in accordance with Welf. & Inst. Code, § 366.24.

18 If a lawyer is representing you in this case, he or she must sign here:

Date: _____ *Type or print your name*  _____ *Signature of attorney for adopting parent(s)*

19 I declare under penalty of perjury under the laws of the State of California that the information in this form and all its attachments is true and correct to my knowledge. This means that if I lie on this form, I am guilty of a crime.

Date: _____ *Type or print your name*  _____ *Signature of adopting parent*

Date: _____ *Type or print your name*  _____ *Signature of adopting parent*

ADOPT-215 Adoption Order

Clerk stamps date here when form is filed.

Draft
Not approved by the
Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Your name (*adopting parent(s)*):

a. _____

b. _____

Relationship to child: _____

Street address: _____

City: _____ State: _____ Zip: _____

Daytime telephone number: _____

Lawyer (*if any*): (*Name, address, telephone number, and State*

Bar number): _____

2 Child's name after adoption: _____

First Name: _____

Middle Name: _____

Last Name: _____

Date of birth: _____ Age: _____

Place of birth (*if known*): _____

City: _____ State: _____ Country: _____

3 Name of adoption agency (*if any*): _____

4 Hearing date: _____

Dept.: _____ Div.: _____ Rm.: _____ Judicial Officer: _____

Clerk's office telephone number: _____

5 People present at the hearing:

Adopting parent(s) Lawyer for adopting parent(s)

Child Child's lawyer

Parent keeping parental rights: _____

Other people present (*list each name and relationship to child*):

a. _____

b. _____

If there are more names, attach a sheet of paper, write "ADOPT-215, Item 5" at the top, and list the additional names and each person's relationship to child.

Judge will fill out section below.

6 The judge finds that the child (*check all that apply*):

a. Is 12 or older and agrees to the adoption

b. Is under 12

c. This is a tribal customary adoption and the child's consent is not required.

7 The judge has reviewed the report and other documents and evidence and finds that each adopting parent:

a. Is at least 10 years older than the child **or** Will support and care for the child

meets the criteria in Fam. Code, § 8601(b) Has a suitable home for the child *and*

b. Will treat the child as his or her own Agrees to adopt the child



Case Number: _____

Your name: _____

8 This case is **an adoption by a relative** petitioned under Family Code section 8714.5.
 The adopting relative The child, who is 12 or older, has requested that the child's name before adoption be listed on this order. (Fam. Code, § 8714.5(g).)
The child's name before adoption was:
First Name: _____ Middle Name: _____ Last Name: _____

9 The child is an Indian child. The judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act or that there is good cause to give preference to these adopting parents. The clerk will fill out **14** below.

10 The judge approves the *Contact After Adoption Agreement* (ADOPT-310)
 As submitted As amended on ADOPT-310

11 This is a tribal customary adoption, The tribal customary adoption order of the _____ tribe dated _____ containing _____ pages and attached hereto is fully incorporated into this order of adoption.

12 **This is an adoption under the Hague Adoption Convention. *Verification of Compliance with Hague Adoption Convention Attachment* (form ADOPT-216) is attached and fully incorporated into this order.**

13 The judge believes the adoption is in the child's best interest and orders this adoption.
The child's name after adoption will be:
First Name: _____ Middle Name: _____ Last Name: _____

The adopting parent or parents and the child are now parent and child under the law, with all the rights and duties of the parent-child relationship or, in the case of a tribal customary adoption, all the rights and duties set out in the tribal customary adoption order and Welfare and Institutions Code section 366.24.

The judge believes it will serve public policy and the best interest of the child to grant the request of the adopting parent or parents for the court to make this order effective as of (date): _____.

Date: _____
(Date of Signature)

Judge (or Judicial Officer)

Clerk will fill out section below.

14 Clerk's Certificate of Mailing

For the adoption of an Indian child, the Clerk certifies:
I am not a party to this adoption. I placed a filed copy of:

- Adoption Request* (ADOPT-200) *Adoption of Indian Child* (ADOPT-220)
- Adoption Order* (ADOPT-215) *Contact After Adoption Agreement* (ADOPT-310)

in a sealed envelope, marked "Confidential" and addressed to:
Chief, Division of Social Services
Bureau of Indian Affairs
1849 C Street, NW
Mail Stop 310-SIB
Washington, DC 20240

The envelope was mailed by U.S. mail, with full postage, from:
Place: _____ on (date): _____
Date: _____ Clerk, by: _____, Deputy

ADOPT-216

Verification of Compliance with Hague Adoption Convention Attachment

(Attach to Adoption Order (form ADOPT-215) in cases proceeding under the Hague Adoption Convention.)

Clerk stamps date here when form is filed.

Draft
Not approved by the
Judicial Council

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Determination of Application of Hague Adoption Convention (to be completed by adopting parent(s)):

- a. If applicable, please state the permanent address outside the United States of the adopting parent(s): _____

- b. Will you be moving the child to permanently reside in another country? Yes No
- c. If your answer to 1(b) is yes, what is the name of the other country?

- d. If your answer to 1(b) is yes, when will the move occur?

- e. Has the child lived in any other country since his/her birth? Yes No
- f. If your answer to 1(e) is yes, please indicate the country and the length of time the child resided there.
(country): _____
(length of time resided in country): _____
- g. What is the child's citizenship? _____
- h. Please state date(s) for any contact between the prospective adoptive parent(s) and the child's birth parent(s) or any other person who has had care of the child and describe the contact:

- i. Please state the amount and purpose of any payments made by the adopting parent(s) to the birth parent(s) or any other person who has had care of the child:

2 Court Findings (to be completed by the judge)

The court finds as follows:

- The Hague Adoption Convention applies to this adoption.
- All parental rights have been terminated and the child has been declared free from the custody and control of his or her parents; thus, the child is adoptable. (Convention, art. 4(a).)



Your name: _____

- By clear and convincing evidence, an intercountry adoption is in the best interest of the child. (*Convention, art. 4(b).*)
- The adoption services provider meets the requirements of 22 C.F.R. (*Code of Federal Regulations*) part 96.

3 Court Verifications (to be completed by the judge)

The court verifies that the agency has met the substantive regulatory requirements of 22 C.F.R. § 97.3(a)–(k) in the following categories:

- Preparation of child background study (*Convention, art. 16(1)(a); 22 C.F.R. § 97.3(a)*);
- Transmission of child data to foreign authorized entity (*Convention, art. 16(2); 22 C.F.R. § 97.3(b)*);
- Reasonable efforts to find domestic placement (*Convention, art. 4(b); 22 C.F.R. § 97.3(c)*);
- Preparation and transmission of home study (*Convention, art. 15; 22 C.F.R. § 97.3(d)*);
- Authorization for the child to enter the receiving country (*Convention, art. 5; 22 C.F.R. § 97.3(e)*);
- Consent to the adoption/custody by foreign authorized entity (*name of entity*): _____
(*Convention, art. 17; 22 C.F.R. § 97.3(f)*);
- Guardian/parent counseling and consent (*specify*): _____
(*Convention, art. 4(d); 22 C.F.R. § 97.3(g)*);
- Child counseling and consent (*if applicable*)(*specify*): _____
(*22 C.F.R. § 97.3(h)*);
- The agency and the Central Authority of the receiving country, as defined in Family Code section 8900.5(c), (*name of receiving country*): _____
(*name of central authority*): _____
have both signed Placement Adoption Papers (*22 C.F.R. § 97.3(i)*);
- The agency has taken all steps to ensure the secure transfer of the child, including obtaining permission for the child to leave the United States (*Convention, arts. 18 & 19; 22 C.F.R. § 97.3(i)*);
- The agency has taken all steps to keep the Central Authority of the receiving country informed about the adoption process, as well as the progress of the placement if a probationary period is required (*Convention, art. 20; 22 C.F.R. § 97.3(i)*);
- Proper observance of the “no-contact” rule, if applicable (*22 C.F.R. § 97.3(j)*);
- That no improper financial or other gain was derived (*22 C.F.R. § 97.3(k)*).

4 Court Orders

The court grants

- Final adoption order.
- Final custody decree.

Date: _____

Judge (or Judicial Officer)

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Office of the Los Angeles County Counsel by James Owens Division Chief Children’s Services Division	AM	<p>Adoption Request (ADOPT-200) Adoptive parents are entitled to see the adoption file. It is a strong concern that in the case of agency adoptions, several items in the adoption request represent a potential problem with adoptions confidentiality. In agency adoptions, adoptive parents are not entitled to identifying information regarding birth parents and vice versa. Maybe all of these items that reveal identifying information regarding birth parents should be grouped in, and attached to, a separate form that is not to be released to adoptive parents. These items are :</p> <p>Item 7 on Adoption Request. This item asks that the ICWA-10 and ICWA-20 be attached. These forms contain identifying information regarding the birth family.</p> <p>Item 14b. Calls for names of birth parents.</p> <p>Item 14f (now 14g). Calls for names of birth parents. It would also be appropriate to have the attachment of the death certificate or an explanation of its absence.</p> <p>Additionally, there are allowable exceptions to item 15a. Family Code 8601(b) states that an adopting sibling, aunt/uncle, first cousin and their spouses need not be 10 years older than the adoptee if the court finds that the adoption is in the parties' and public's best interest. So item</p>	<p>The committee concluded that the suggestions in this comment would result in substantive revisions to form ADOPT-200 that are unrelated to the current proposal. An ICWA inquiry has been required for every adoption since 2008 and the requirement to attach the inquiry forms to form ADOPT-200 has been in place since 2010 (see ADOPT-050). The proposed revisions to this form do not represent changes, but rather clarifications or reorganizations with regard to this information. Family Code section 9200 provides a mechanism to delete information that names or otherwise identifies birth parents to protect confidentiality. The committee will evaluate whether this issue needs to be addressed in a future cycle.</p> <p>See response above.</p> <p>The committee considered this suggestion, but does not recommend requiring a death certificate. There have not been any reports of problems with this section, which has been in effect since approximately 1999.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>15a on the Adoption-200 should say something like "Is at least 10 years older than the child or meets the criteria in Family Code 8601(b)."</p> <p>Also, it would appropriate to add an item inquiring about the disposition of appeals from the termination of parental rights hearing (for the clerk to fill out) and requiring the attachment of a remittitur in the case of any appeal of the termination of parental rights hearing, being affirmed.</p> <p>Adoption Order (ADOPT-215) Item 7a should have two choices and should read (in conformity with FC 8601(b) : "Is at least 10 years older than the child OR is a relative of the adoptee as defined in Family Code 8601(b) and the court finds that the adoption is in the best interest of the parties and in the public interest."</p>	<p>Because this would be a substantive change to the proposal, the committee believes that public comment should be sought before it is considered for adoption. The committee will consider adding this suggestion to a future rules cycle.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p>
2.	Public Counsel Law Center Los Angeles by Karen Ullman, Supervising Senior Staff Attorney & Marisol Haro, Staff Attorney	AM	We have comments on several areas, however, of particular concern to us is the change to section 7a requiring the attachment of the ICWA-10(A) and ICWA-20 in all adoption cases. This should only be required for Independent Adoptions. For Agency Adoptions not only do adopting parents not have these forms, but they are not entitled to have them as they contain confidential information about the biological parent(s) the adopting parents are not legally entitled to.	The committee concluded that the suggestions in this comment would result in substantive revisions to form ADOPT-200 that are unrelated to the current proposal. An ICWA inquiry has been required for every adoption since 2008 and the requirement to attach the inquiry forms to form ADOPT-200 has been in place since 2010 (see ADOPT-050). The proposed revisions to this form do not represent changes, but rather clarifications or reorganizations with regard to this information. Family Code section 9200 provides a mechanism to delete information that names or

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Adoption Request (ADOPT-200)</p> <ul style="list-style-type: none"> • Item 2: There are currently two options listed on the Form regarding Joinder: “Joinder has been filed” and “Joinder will be filed.” However, in Agency Adoptions, Joinder is filed with the Court at the same time the Adoption Request form is filed. <ul style="list-style-type: none"> ○ Therefore, it would be helpful to have a third option, “Joinder is being filed concurrently with this form.” • Item 3(g): Date Child was placed in your physical care: <ul style="list-style-type: none"> ○ is the information requested the date of the initial placement or the date of the adoptive placement? ○ If the initial placement it would help to use this language, “Date child was initially placed in your physical care” • Item 7: Regarding whether the child may have Indian ancestry, Item 7(a) states that “Whatever you answered, you must attach <i>Forms ICWA-10(A)</i>, Indian 	<p>otherwise identifies birth parents to protect confidentiality. The committee will evaluate whether this issue needs to be addressed in a future cycle.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee does not recommend a change to this item at this time. It has been in place since approximately 1999 and we have not received any prior comments suggesting that it is confusing.</p> <p>The committee concluded that the suggestions in this comment would result in substantive revisions to form ADOPT-200 that are unrelated to the current proposal. An ICWA inquiry has been required for every adoption since 2008 and the</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Child Inquiry Attachment, <i>and ICWA-20</i>, Parental Notification of Indian Status.” The requirement to attach ICWA 10(A) and ICWA- 20 in Agency Adoptions raises significant concerns.</p> <ul style="list-style-type: none"> ○ The attachment of these forms should only be required in independent adoptions ○ Adopting parents in agency adoptions do not have access to the ICWA 10(A) and ICWA -20 form ○ Requiring these forms be attached in agency adoptions would violate confidentiality rules pertaining to the identity of the biological parents as both forms contain information about the biological parent, including the name of the biological parent. ● Item 8: Names of birth parents if known <ul style="list-style-type: none"> ○ this information should not be requested for Agency Adoptions ● Item 9(b): This statement regarding relinquishment should be moved to section 14. 	<p>requirement to attach the inquiry forms to form ADOPT-200 has been in place since 2010 (see ADOPT-050). The proposed revisions to this form do not represent changes, but rather clarifications or reorganizations with regard to this information. Family Code section 9200 provides a mechanism to delete information that names or otherwise identifies birth parents to protect confidentiality. The committee will evaluate whether this issue needs to be addressed in a future cycle.</p> <p>See above.</p> <p>See above.</p> <p>See above. This request has been on form ADOPT-200 since approximately 1999 and the committee has not received prior comments expressing concern about it with regard to agency adoptions.</p> <p>The committee discussed this suggestion, but declines to make this change.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"> • Item 14: Items 14(a) through 14(f) are intended to clarify when the consent of the biological parents is not necessary. The current draft is confusing for a number of reasons: <ul style="list-style-type: none"> ○ 14(a) indicates consent of the birth mother and natural father are not necessary <ul style="list-style-type: none"> ▪ It is not clear what “natural father” means as the term birth parent is used in the family code ▪ Many agency adoption cases have presumed or alleged father(s), it needs to be made clear if information needs to be included on presumed or alleged fathers or only on a birth father. ▪ It looks like section 14(a) needs to be filled out in all cases, however for agency adoptions 14(b) and/or (f) would be most commonly used. <ul style="list-style-type: none"> • Section 14 should state “Consent is not necessary because (check the applicable subdivision of Family Code 8606” then have section (a1-a5) then section b etc. • The difference between 	<p>The committee agrees with this suggestion and has revised the proposed form incorporating the ideas and making clarifications set forth in the comment.</p> <p>See above.</p> <p>See above.</p> <p>See above.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>section 14(a)(1) – The birth parent has been judicially deprived of the custody and control of the child and 14(b) The court ended parental rights of:” is not clear.</p> <ul style="list-style-type: none"> • Item 14: Item 14(b) as it applies to Agency Adoptions requires additional options: <ul style="list-style-type: none"> ○ In Agency Adoptions it is possible that parental rights of more than two persons have been terminated. For example, you may have termination of parental rights for “Mother,” “Presumed Father,” “Alleged Father,” and/or “Alleged Fathers.” Currently the form only allows enough space to indicate termination of parental rights for two people. An additional space is needed. ○ In Agency Adoptions it is possible that one or both birth parents relinquished the child. Section 9(b) covers relinquishment in an Agency Adoption. However, it is confusing that it is in section 9(b) instead of section 14. Further confusion is added by 14(a)(4) which is also 	<p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee has considered this comment and other than clarifying item 14 as noted above, will not be making further revision. Item 14a was item 14 on the form being revised and asked for the appropriate subdivision of Family Code section 8606 to justify proceeding without consent. The revision simply lists the applicable subdivisions to make it easier for the user.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Code 8601(b) and the court finds that the adoption is in the best interest of the parties and in the public interest."</p> <ul style="list-style-type: none"> • Item 9: Item 9 states “The judge finds that this adoption meets the placement requirements of the Indian Child welfare act <u>and</u> that there is good cause to give preference to these adopting parents.” <ul style="list-style-type: none"> ○ the ‘and’ should be changed to ‘or’ so it would read: <ul style="list-style-type: none"> ▪ The Judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act or that there is good cause to give preference these adopting parents.” ○ This change is needed to match the Indian Child Welfare Act which states the placement preferences or that a judge finds good cause to give preference to the adopting parents even if they don’t meet the preference requirements of the act. 	<p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p>
3.	The State Bar of California Office of Legal Services Standing Committee on the Delivery of Legal Services (SCDLS)	AM	This form would benefit from revision to eliminate legal jargon and to convert to plain language. Self-represented litigants are often confused by legal jargon. Also, the form is	The committee has considered this comment and while it has not incorporated all of the specific suggestions, it has incorporated many ideas into further revisions to the forms for clarification and

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
	by Sharon Ngim Program Director & Staff Liaison		<p>quite long, there is a lot of black space without much white space to delineate new areas. Long and overly involved forms cause difficulties for self-represented litigants.</p> <p>Adoption Request (ADOPT-200)</p> <ul style="list-style-type: none"> • The new item 14 ("Consent for Adoption"), page 3 of 4, is particularly problematic. It might be better to split #14, and have two sections, one for the mother and one for the father, since there has to be some sort of consent (or reason for no need for consent) for both birth parents. It is confusing and unclear from the form that there must be a "reason" for both. • Item 14 (a)(1) and (2) are legal jargon and they seem duplicative of (b) because they both imply a court order terminating parental rights. Both could be handled in (b) with some minor changes. Perhaps (a)(2) could be deleted and (a) (1) could read: <i>The birth parent(s) rights have been terminated by court order. See (b), below.</i> • Item 14 (b) could include a provision for indicating if the order was stipulated/voluntary (if that is really necessary, since the order has to be attached). 	<p>ease of use.</p> <p>See above.</p> <p>See above.</p> <p>The committee discussed this suggestion, but declines to make this change.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"> • Item14 (a)(3) and (d)(2)(a) are both confusing in wording. It is unclear if the reference here is to a parent abandoning an infant anonymously, such as with a fire station or hospital. In any event, an explanation is in order. Also, change “without provision for the child’s identification” to plain language so that it will be understood by self-represented litigants. • Item 14 (e) is confusing because of the legal jargon. • Item 15 (“Suitability for Adoption”), page 4 of 4, while not part of the changes at this time, seems to be missing a statement about age of majority. 	<p>The committee primarily agrees with this comment and has incorporated its ideas, with some alterations, into the revisions that it is recommending for adoption.</p> <p>See above.</p> <p>The committee discussed this suggestion, but declines to make this change.</p>
4.	Superior Court of San Diego County by Mike Roddy Executive Officer	AM	<p>Adoption Request (ADOPT-200)</p> <ul style="list-style-type: none"> • Items 1, 9, 10.c., 11.c., 14.d., 16, 17, 18: The form is inconsistent in how it addresses the adopting parent or parents. Although it appears the form may be used by two adopting parents, several items address only one adopting parent. The following changes are suggested: <p>1: Your name (s) (adopting parent (s)):</p> <p>9.a.: I/We have received information about the Adoption</p>	<p>The committee agrees with these suggestions and has incorporated them, with minor alterations, into the revisions that it is recommending for adoption.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Assistance Program, the Regional Center, and about mental health services available through Medi-Cal or other programs.</p> <p>10.c.: I/We will file promptly with the department or delegated county adoption agency the information required by the department in the investigation of the proposed adoption.</p> <p>14.d.: I/We will ask the court to end the parental rights of (<i>attach copy of</i> Petition to Terminate Parental Rights <i>or</i> Application for Freedom From Parental Custody, <i>if filed</i>):</p> <p>16: I/We ask the court to approve the adoption and to declare that the adopting parents and the child have the legal relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance</p> <p>16: I/We ask the court to date its order approving the adoption as of an earlier date (<i>date</i>): ,</p> <p>16: This is a tribal customary adoption. I/We ask the court to approve the adoption and to declare</p>	

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>that the adopting parents and the child have the legal relationship of parent and child, with all of the rights and duties stated in the attached tribal customary adoption order and in accordance with Welf. & Inst. Code, § 366.24.</p> <p>17: <i>Signature of attorney for adopting parent(s)</i></p> <ul style="list-style-type: none"> • Item 7.a.: The form numbers should be changed to ICWA-010(A) and ICWA-020 to match the numbers actually used on those forms. • Items 7.a. & 7.b.: For consistency of style with the rest of this form and with other Judicial Council forms, the referenced form numbers should be in Roman and the titles of the forms should be in italics. Also, We suggest adding “fill out and” before “attach” to ensure that the petitioner does not merely attach blank forms. • Item 7a: We recommend "Whether you answered 'Yes' or 'No', you must attach . . ." • Items 7.b.: Per Cal. Style Manual, § 4:49, “If a comma immediately follows a quoted word or phrase, place the comma inside the closing quotation mark.” 	<p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>a. Whatever Whether you answered “Yes or “No.” you must fill out and attach Forms ICWA-010(A), <i>Indian Child Inquiry Attachment</i>, and ICWA-020, <i>Parental Notification of Indian Status</i>.</p> <p>b. If you answered “Yes”, “Yes.” you must also fill out and attach Form ADOPT-220, <i>Adoption of Indian Child</i>.</p> <ul style="list-style-type: none"> • Item 9a: We recommend "I have received information about the Adoption Assistance Program, Regional Center, and mental health services available through Medi-Cal or other programs." • Item 9.a.: This item appears to be based on WIC § 16119, which is cited in the footer on page 1. That statute requires that the adopting parent(s) also receive information about specified tax credits (§ 16119(a) & (g).), which are not mentioned in item 9.a. The item can be changed to include this information as follows: 9.a.: I/We have received information about the Adoption Assistance Program, the Regional Center, and about 	<p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>mental health services available through Medi-Cal or other programs, <u>and federal and state tax credits which might be available.</u></p> <ul style="list-style-type: none"> • Item 10b: We recommend "All persons with parental rights agree to the adoption and have signed the Independent Adoptive Placement Agreement or consent on the appropriate California Department of Social Services form." • Item 14: We are not sure this reorganization meets its stated goal to "clarify the various means available to dispense with consent." It is still very confusing. • Item 14a(2): We recommend "The birth parent has voluntarily surrendered the right to custody and control of the child in a judicial proceeding in another jurisdiction pursuant to a law of that jurisdiction providing for the surrender." (No order is required.) • Item 14d: This subdivision is extremely confusing and misleading. A Petition to Terminate Parental Rights (TROF) is brought under FC 7660 et seq. to terminate the rights of a biological father who is not a presumed 	<p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>No response required.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee has considered this comment and while it has not incorporated all of the specific suggestions, it has incorporated many ideas into further revisions to the forms for clarification and ease of use.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>father. An Application for Freedom From Parental Custody (FFCC) is brought under FC 7800 et seq. to terminate the rights of a mother or a presumed father. A proceeding under FC 8604(b) can be filed when the child is in the legal custody of one parent, and the other parent for a period of one year willfully fails to communicate with and to pay for the care, support, and education of the child when able to do so. We recommend that (1) become subdivision e. An Application for Freedom From Parental Custody is not required in an 8604(b) case, so we recommend that the language in parentheses be deleted. In San Diego, we use a Citation for Adoption (JUV-170) to give the required notice under FC 8604(b). We recommend that (2) be deleted entirely because abandonment (FC 7822) is just one of the many grounds for freeing a child from the custody and control of a parent. See also FC 7823 - 7829. Rather than trying to clarify the grounds for a TROF or a FFCC in the Adoption Request, it would be helpful to have separate forms for the TROF and FFCC petitions.</p> <ul style="list-style-type: none"> • Item 14e: There is a typo in the proposed language: the mother's 	<p>The committee agrees with this comment as to the typo and the placement of the period, and will</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>relinquishment or consent becomes. More importantly, we think this new language will add confusion. A birth father's rights still must be terminated under FC 7660 et seq., even if he is not a presumed father. By stating that the consent of a father is not required, people will likely believe that no further action is required with respect to that father. At a minimum, if item 14.e. remains as proposed, a period should be inserted in the statutory citation: (Fam. Code, § 8604(a).)</p> <ul style="list-style-type: none"> • Item 16 in the proposed form (that is #21 in the current form) was previously a statement on the form, not a checkbox. It is unclear why this became a checkbox in 2010 as that statement is essentially the purpose of the adoption and it would apply to all filings. It should be made a statement once again. • Left footer, page 1: Insert “8714” between “8700” and “8714.5.” Consider adding statutes and Cal. Rules of Court which govern ICWA proceedings: FC §§ 170, 175, 177, 180, 7892.5, 9208, rules 5.480-5.487. <p>Judicial Council of California, www.courts.ca.gov Revised January 1, 2013, Mandatory Form Family Code, §§ 170, 175, 177, 180, 7822,</p>	<p>revise accordingly, but declines to further revise this item. The item tracks the language of Family Code section 8604(a) and is a legitimate ground for dispensing with consent. Users of the form will check all options that apply on this section, which can include termination of parental rights where indicated.</p> <p>The committee discussed this suggestion, but declines to make the change. That statement became a checkbox in 2010 when tribal customary adoption was added to the form. Tribal customary adoption requires a different statement with regard to the adopting parent(s) rights and duties.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>7892.5, 8601.5, 8604, 8606, 8700, 8714, 8714.5, 8802, 8912, 9000, 9208; Welfare and Institutions Code, §§ 366.24, 16119; Cal. Rules of Court, rules 5.480-5.487, 5.730</p> <p>Adoption Order (ADOPT-215)</p> <ul style="list-style-type: none"> Item 12: There could be confusion regarding what date should be entered next to the judge's signature when a nunc pro tunc order is granted. Items 1, 5, 9, 12: This form is also inconsistent in how it addresses the adopting parent or parents. The following changes are suggested: <ul style="list-style-type: none"> 1: Your name(s) (adopting parent(s)): 5: Adopting parent(s) Lawyer for adopting parent(s) 9. The child is an Indian child. The judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act and that there is good cause to give preference to these adopting parent(s). Item 6.a. & 6.b.: Insert 	<p>The committee agrees with this suggestion and has revised the section to clarify the date requirements.</p> <p>The committee agrees with these suggestions and has incorporated them, as appropriate, into the revisions that it is recommending for adoption.</p> <p>The committee agrees with these suggestions and</p>

SPR12-18

Family Law: Revisions to Adoption Forms (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>periods.</p> <p style="padding-left: 40px;">a: Is 12 or older and agrees to the adoption.</p> <p style="padding-left: 40px;">b: Is under 12.</p> <ul style="list-style-type: none"> • Item 11: Typo -- change the comma to a period. • There is now a section on page 2 that includes language regarding a nunc-pro-tunc date. Is the intent of the new date field to have the court enter the nunc-pro-tunc date there and then have the date to the left of the judicial officer signature be the date the nunc-pro-tunc order was made? It would more clear if both the nunc-pro-tunc date and the order date were captured, however the intent of the form change is not clear. • Left footer, page 1: Change “8902” to “8802.” Consider adding statutes and Cal. Rules of Court which govern ICWA proceedings: FC §§ 170, 175, 177, 180, 7892.5, 9208, rules 5.480-5.487. 	<p>have incorporated them, as appropriate, into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has revised the section accordingly.</p> <p>As noted above, the committee agrees with this suggestion and has revised the section to clarify the date requirements.</p> <p>The committee agrees with this suggestion and has revised the section accordingly.</p>

SPR12-18**Family Law: Revisions to Adoption Forms** (revise forms ADOPT-200 and ADOPT-215)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			Judicial Council of California, <i>www.courts.ca.gov</i> Revised January 1, 2013, Mandatory Form Family Code, §§ <u>170, 175, 177, 180,</u> <u>7892.5,</u> 8601.5, 8612, 8714, 8714.5, <u>89028802,</u> 8912, 9000, <u>9208</u> ; Welfare and Institutions Code, §§ 366.24; Cal. Rules of Court, rules <u>5.480-5.487,</u> 5.730	

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	California Department of Social Services, Permanency Policy Bureau by Sharon DeRego, LCSW, Bureau Chief	AM	<p><u>Changes to the ADOPT 200</u></p> <p><u>Addition to Item 2, page 1:</u> Changes made to reflect consolidating venue changes for where an adoption petition may be filed. <u>One concern that revised form is not clear that there will be no changes affecting the venue for filing a petition for dependent children. Clear language in FC 8714 dictates petition filing must remain in county of dependency or where petitioner resides.</u></p> <ul style="list-style-type: none"> Propose to add a 2“a” that incorporates “in the case of a dependent child the petition must be filed...” <p><u>Propose change to Item 3, page 1:</u> Under Type of Adoption- Suggest changing “International” to “Intercountry” to reflect language used in FC 8900.</p> <p><u>Propose change to Item 3, page 1:</u> Suggest deleting both boxes of “relative” and “nonrelative” under the independent adoption box due to the confusion it causes with the applicability of Family Code Section 8730 outside of agency adoptions. This clarification can be added to Item 11 (see comments below).</p> <p><u>Propose change to Item 8, page 2:</u> Causes confusion since it states the child “may” have Indian ancestry and if you answer “yes” the form requires the petitioner to attach ADOPT-220, however the ADOPT-220 form is</p>	<p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>The committee discussed this suggestion, but declines to make this change.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>only needed in cases where the child falls under ICWA. With the current instructions on the form, petitioners may attach an ADOPT-220 in cases where, ultimately, the Act does not apply after proper noticing has been provided.</p> <p><u>Propose change to Item 10(b), page 2:</u> Counties no longer need to be licensed to perform adoption functions.</p> <ul style="list-style-type: none"> Proposed change: “All persons with parental rights agree that the child should be placed for adoption by the California Department of Social Services or a <u>county adoption agency or private licensed adoption agency.....</u>” <p><u>Propose change to Item 11, page 2:</u> Suggest adding a statement that explains the basis for not attaching the Independent Adoption Placement Agreement: “The Independent Adoption Placement Agreement is not required because the petition is filed under one of the following: <input type="checkbox"/> Relative _____ (Relationship) <input type="checkbox"/> Named in the will <input type="checkbox"/> Legal Guardian (over 1 year) <input type="checkbox"/> Legal Guardian (6 months with abandoned §7822) <input type="checkbox"/> Guardian (3 years) <u>Propose change to Item 11, page 2(c):</u> Suggest rewording: “I/We will file promptly with the department or delegated county adoption agency the information required for the investigation of the</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee discussed this suggestion, but declines to make this change.</p>

W13-07**Family Law: Rules and Forms for Domestic and Intercountry Adoptions**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>proposed adoption and will pay the fee for the cost of the investigation in accordance with Family Code Section 8810.</p> <p><u>Propose changing Item 15 (g), page 3:</u> Propose moving 15(g) under 15(a) to incorporate consent(s) into one section.</p> <p>Section b may require petitioners to attach copies of documents they may not have access to (i.e. juvenile court record).</p>	<p>The committee discussed this suggestion, but declines to make this change.</p> <p>The committee discussed this suggestion, but declines to make this change.</p>
2.	<p>Family Connections Christian Adoptions by Alison Foster Davis, Executive Director</p>	AM	<p>Thank you for your work on these forms. The improvements are significant and welcomed! I would like to suggest a few other changes, as follows:</p> <p>1. Move the hearing date box to the first page to be consistent with long-standing practice, and to eliminate potential confusion or failure to realize that a hearing date has actually been scheduled.</p> <p>2. Item #3 – remove the option “joinder has been filed.” This is nonsensical because there is no way to file a joinder until a court file has been opened, and the filing of the Adoption Request is what triggers a court file to be opened. Thus, only the second and third options (joinder will be filed, or joinder is filed with this Request) are necessary.</p> <p>3. Item #14 – swap this item's location with #15, since #14 seems out of place and somewhat in</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee discussed this suggestion, but declines to make this change.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			the midst of all the items regarding consent, in that post-adoption contact is a separate legal issue from consent.	
3.	Orange County Bar Association by Wayne R. Gross, President	A	*No specific comment.	No response required.
4.	Public Counsel--Adoptions Project by Karen Ullman, Supervising Senior Staff Attorney	AM	<p>Adoption Request - ADOPT 200</p> <p>Item8: Regarding whether the child may have Indian ancestry, Item 8(a) states that “Whatever you answered, you must attach <i>Forms ICWA-10(A)</i>, Indian Child Inquiry Attachment, <i>and ICWA-20</i>, Parental Notification of Indian Status.” The requirement to attach ICWA 10(A) and ICWA- 20 in Agency Adoptions raises significant concerns.</p> <p>The attachment of these forms should not be required if Item 7 is marked “yes” (ie yes the child is a dependent of the court). As the dependency court handles the ICWA investigation and findings of whether a child is ICWA eligible or not within the Dependency case.</p> <p>If there is still a concern that there be</p>	<p>The committee concluded that the suggestions in this comment would result in substantive revisions to form ADOPT-200 that are unrelated to the current proposal. An ICWA inquiry has been required for every adoption since 2008 and the requirement to attach the inquiry forms to form ADOPT-200 has been in place since 2010 (see ADOPT-050). The proposed revisions to this form do not represent changes, but rather clarifications or reorganizations with regard to this information. Family Code section 9200 provides a mechanism to delete information that names or otherwise identifies birth parents to protect confidentiality. The committee will evaluate whether this issue needs to be addressed in a future cycle.</p> <p>See response above.</p> <p>See response above.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>confirmation of the child’s status as ICWA or non ICWA eligible, a redacted minute order (redacted to block out the names of the biological parents) with the ICWA finding could be attached.</p> <p>Adopting parents in agency adoptions do not have access to the ICWA 10(A) and ICWA -20 form as these forms contain confidential information about the biological parent and biological family.</p> <p>Requiring these forms be attached in agency adoptions would violate confidentiality rules pertaining to the identity of the biological parents as both forms contain information about the biological parent, including the name of the biological parent</p> <p>This would also be a problem for the adoption file as this information would have to be sealed and/or potentially kept in a separate file as the name of the biological parent is not supposed to be in the adoption file.</p> <p>Item 9: Names of birth parents if known this information should not be requested for Agency Adoptions.</p> <p>Item 15: There are boxes to check for birth mother, birth father and presumed father, however, there is no box for alleged natural father or fathers.</p> <p>Most agency adoption cases in Los Angeles</p>	<p>See response above.</p> <p>See response above.</p> <p>See response above.</p> <p>See response above.</p> <p>The committee does not recommend a change to this item at this time. The language tracks the language in Family Code section 8606.</p>

W13-07**Family Law: Rules and Forms for Domestic and Intercountry Adoptions**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>County have alleged father or fathers, it would be very helpful to add a box for alleged natural father (singular) and alleged natural fathers (plural as there can be more than one alleged natural father).</p> <p>15(a)(1) – birth parent has been judicially deprived of custody and control and 15(b) – court ended parental rights are the same. In cases where parental rights have been terminated by the court is it expected that both 15(a)(1) and 15b will be filled out?</p> <p>Items 10(b) and item 15(a)(4) cover relinquishment, it is not clear why this is indicated in two places.</p>	<p>The committee does not recommend a change to this item at this time. If 15(a)(1) is checked, the petitioner would still need to complete 15(b) to provide the relevant details.</p> <p>The committee does not recommend a change to these items at this time. Item 10(b) provides the court with information on relinquishment, while item 15(a) explains why consent is not required.</p>
5.	Superior Court of Santa Barbara County by Tracy Splitgerber Legal Research Attorney	AM	<p>My comment concerns newly-revised paragraph 15 on the Request for Adoption, subdivisions (d), (e) and (f)</p> <p>Subdivision (f) recites the standards for abandonment, the most frequently relied upon basis for obtaining an order freeing the child from a parent’s custody. As you know, in order to obtain that finding, one must file an application or petition with the court, such as indicated by subdivision (d). Since most of our petitioners in this county are self-represented, it may be useful to add some instruction in subdivision (f) indicating that if any of the boxes have been checked, then subdivision (d) must also be checked and an Application for Freedom From Parental Custody must be filed.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

W13-07**Family Law: Rules and Forms for Domestic and Intercountry Adoptions**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>("If any of the above boxes are checked, Petitioner must also check subdivision (d) and file an Application for Freedom from Parental Custody.")</p> <p>Subdivision (e) addresses section 8604(b). Section 8604(b) may be relied upon only if one birth parent has custody by judicial order or has custody by agreement of both parents. Should the predicate conditions be listed to ensure that the self-represented petitioner falls within the appropriate parameters?</p> <p>Moreover, I'm not sure what the newly added "date" item refers to—the date the period begins, or the date it ends?</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption by removing the date request.</p>
6.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p>General comments:</p> <p>In San Diego we would very much like to have rules and forms that help us comply with the Hague Adoption Convention. We appreciate your efforts in this respect. The new rule and forms do address cases in which a U.S. citizen is being adopted in another Hague country ("outgoing cases"). We have had immigration attorneys ask us to amend adoption orders in cases in which a child from another Hague country is being adopted in the U.S. ("incoming cases") to make a finding about the child's country of habitual residence. It would be helpful to have a rule of court that addresses incoming cases, even if just to say that any required findings must be made in the child's country of birth.</p>	<p>The committee agrees with this suggestion and has drafted and recommends the adoption of rule 5.492 to address this issue.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Although court staff may inform people who are adopting a child from another country that the adoption does not guarantee that the child will become a U.S. citizen and warns them to seek advice from an immigration attorney. It would be helpful to have this type of admonishment on the forms somewhere.</p> <p>Recommended changes: Rule 5.405: • (d)(1): Close parentheses after ADOPT-200 • (e)(14): "The adoption agency or provider certifies . . ."</p> <p>ADOPT-216: • "All parental rights have been terminated and/or the child has been declared free from the custody and control of his/her parents; thus, the child is adoptable. (Convention article 4(a).)"</p> <p>ADOPT-200: • 3: Joinder has previously been filed. Joinder will be filed. Joinder is being filed with this Adoption Request.</p> <p>• 10d: This is an adoption conducted under the requirements of the Hague Adoption Convention and the child will be moving or has already moved with the adopting parent(s) to another Hague Convention country. If yes, child will be moving or has moved to (name of country) . . .</p>	<p>The committee will consider this request for a future cycle.</p> <p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption, except in response to another comment has removed the first option.</p> <p>The committee has moved and expanded that inquiry to proposed form ADOPT-216.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"><li data-bbox="800 310 1352 370">• 15: Overall, this version is much clearer than the Spring version.<li data-bbox="800 410 1352 573">• 15a: This should work for most cases but might not work if there are different reasons for each parent. Also, "birth parent" would not be accurate for a presumed parent who is not a birth parent.<li data-bbox="800 613 1352 776">• 15e: A proceeding under FC 8604(b) can be filed only when the child is in the legal custody of one parent. We recommend that some language to that effect be added. Also, it is unclear what date would be entered.<li data-bbox="800 816 1352 1109">• 15f: Delete. Abandonment (FC 7822) is just one of the many grounds for freeing a child from the custody and control of a parent. See also FC 7823 - 7827. 15d states that a separate TROF or FFCC petition must be filed, so there is no reason to state the grounds for the FFCC in the Adoption Request. (In San Diego we have developed forms for the TROF and FFCC petitions.)<li data-bbox="800 1149 1352 1344">• 15g: A birth father's rights still must be terminated under FC 7660 et seq., even if he is not a presumed father. By stating that the consent of a father is not required, people might believe that no further action is required with respect to that father. <p data-bbox="800 1385 961 1409">ADOPT-215:</p>	<p data-bbox="1396 410 1948 508">The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p data-bbox="1396 613 1948 711">The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p data-bbox="1396 816 1948 881">The committee discussed this suggestion, but declines to make this change.</p> <p data-bbox="1396 1149 1948 1214">The committee discussed this suggestion, but declines to make this change.</p>

W13-07**Family Law: Rules and Forms for Domestic and Intercountry Adoptions**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"> • 13: Our court recommends "Date of signature", rather than "Actual date". 	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.
7.	Superior Court of Riverside County	AM	The ADOPT-200 has been updated to move the hearing date information to the second page. It would be preferred to have the hearing date information remain on the first page of the ADOPT-200. It is easier reference for court and parties if the hearing information is on first page and is consistent with most Judicial Council forms.	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.
8.	U.S. Department of State by Carine L. Rosalia, Attorney Adviser	AM	<p>Comments to Adopt Cal. Rules of Court, rule 5.405</p> <p>Comment 1: The title of the rule implies a narrower scope than the scope of the rule as described in part (c), which correctly mirrors the Intercountry Adoption Act of 2000 (IAA), making reference to the residence of the child, and not its citizenship. See section 303 of the IAA. Suggestion: Revise the proposed title to read <i>Adoptions of <u>children resident in the United States</u> by residents of foreign countries that are party to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention or Hague Adoption Convention)</i></p> <p>Comment 2: The title refers to “countries that are signatories to the Hague Adoption Convention”. However, the Convention does not enter into force until a</p>	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>country has acceded or ratified and observed the waiting period described in Article 46 of the Convention. Signing the Convention constitutes a preliminary step toward ratification.</p> <p>Suggestion: Revise the title to read <i>Adoptions of children resident in the United States by residents of foreign countries that are <u>party</u> to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention or Hague Adoption Convention)</i></p> <p>Comment 3: The rule should include a reference to the full title of the Convention.</p> <p>Suggestion: Revise the title to read <i>Adoptions of children resident in the United States by residents of foreign countries that are <u>party to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention or Hague Adoption Convention)</u></i></p> <p>Comment 4: Subpart (d)(2) is not consistent with the language in subpart (c) concerning when the Convention, and hence the rule applies.</p> <p>Suggestion: revise subpart (d)(2) to read <i>The court must determine whether <u>a child resident in the United States has been or will be moved to a convention country in connection with an adoption</u></i></p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p><i><u>by an individual or individuals residing in a convention country.</u></i></p> <p>Comment 5: The rule does not address the verification of transmission of child data in accordance with 22 CFR 97.3(b). Suggestion: Revise subpart (e)(2) to read <i><u>A child background study has been completed and transmitted to a foreign authorized entity in accordance with the regulations governing Hague adoptions with proof that the necessary consents have been obtained, and the reason for its determination that the proposed placement is in the child's best interests, based on the home study and child background study and giving due consideration to the child's upbringing and his or her ethnic, religious, and cultural background;</u></i></p> <p>Comment 6: The “reasonable efforts” described under 22 CFR 96.54(a) could be added to subpart (e)(4). Suggestion: Include the description of reasonable efforts contained under 22 CFR 96.54 (a): “(1) Disseminating information on the child and his or her availability for adoption through print, media, and internet resources designed to</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>communicate with potential prospective adoptive parent(s) in the United States;(2) Listing information about the child on a national or State adoption exchange or registry for at least sixty calendar days after the birth of the child;(3) Responding to inquiries about adoption of the child; and(4) Providing a copy of the child background study to potential U.S. prospective adoptive parent(s).”</p> <p>Comment 7: Subpart (e)(6)(A) does not exactly reproduce 22 CFR 97.3(d)(1), leaving out the reference to “the characteristics of the child for whom the [petitioners] would be qualified to care” in the home study and not requiring each piece of information: Suggestion: Revise subpart (e)(6)(A) to read <i>Information on the petitioner(s)’ identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, an assessment of their ability to care for the child, <u>and the characteristics of the child for whom they would be qualified to care;</u></i></p> <p>Comment 8: Subpart (e)(7) does not exactly reproduce 22 CFR 97.3(e); it uses different terminology</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>concerning which entity makes a declaration and leaves out the possibility for the petitioner(s) to show that the child may enter and reside on the same basis as the adopting parent(s).</p> <p>Suggestion: Revise subpart (e)(7) to read <i>The <u>Central Authority or competent authority of the receiving country</u> has declared that the child will be permitted to enter and reside <u>permanently or on the same basis as the adopting parent(s) in the receiving country, and has consented to the adoption;</u></i></p> <p>Comment 9: Subpart (e)(8) does not include a reference to the written form of the consents and also limits the consents required to that of the biological or legal parent.</p> <p>Suggestion: Revise the subpart to read <i>All appropriate consents have been obtained <u>in writing in accordance with the following standards:</u></i></p> <p>(A) <i>Counseling was provided to any <u>biological or legal parent or legal guardian</u> consenting to the adoption;</i></p> <p>(B) <i><u>Biological or legal parents or legal guardians</u> were informed of the legal effect of adoption</i></p> <p>Comment 10: Subpart (e)(12) only makes reference to</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>petitioner(s) agreeing to custody of the child for purposes of adoption and does not explicitly address the consent to adoption consistently with 22 CFR 97.3(g).</p> <p>Suggestion: Revise subpart (e)(12) to read</p> <p><i>The petitioner(s) <u>consent to adoption</u> or have agreed to accept custody of the child for purposes of the adoption;</i></p> <p>Comment 11: Subparts d(1), (e), (e)(1), (e)(2) use the terms “Hague Certificate of Adoption”, “Hague Declaration of Custody”, “Hague cases,” and “Hague adoptions” instead of the defined terms found in Family Code sections 8900.5.</p> <p>Suggestion: Change those references to “Hague Adoption Certificate,” Hague Custody Declaration, “convention cases,” and “convention adoption.”</p> <p>Comment 12: The Advisory Committee Comment should make a reference to “parties to the Convention” instead of “member countries”, which could lead to confusions with countries that are <i>members</i> of the Hague Conference on Private International law.</p> <p>Suggestion: Revise the Advisory Committee Comment to read</p> <p><i>It provides a framework for countries <u>party to the Convention</u> to work together to ensure that children are provided permanent, loving homes. . . .</i></p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Comment to ADOPT-216</p> <p>Comment 1: Include a reference to “other gain” in the checkbox relating to CFR 97.3(k). Suggestion: revise the checkbox to read: <i>That no improper financial or <u>other</u> gain was derived (CFR 97.3(k)).</i></p> <p>Comment to ADOPT-200</p> <p>Comment 1: The form does not address the residence of the prospective adoptive parent(s) and whether they will be moving the child outside of the United States, which are essential elements to determine whether the adoption is subject to the Convention. Suggestion: revise Section 1 to incorporate</p> <ul style="list-style-type: none"> - <i>If applicable, permanent address outside of the United States</i> - <i>Will you be moving the child to permanently reside in another country? What is the name of the other country? When will the move occur?</i> <p>Comment 2: The form does not address the residence and citizenship of the child which is essential to</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption, not by revising ADOPT-200, but by revising ADOPT-216 to include the court's determination that the adoption is subject to the convention.</p>

W13-07

Family Law: Rules and Forms for Domestic and Intercountry Adoptions

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>determine whether the adoption is subject to the Convention. See 8 CFR 204.303 and 8 CFR 204.2(d)(2)(vii)(D-F). Suggestion: include the following question under Section 4:</p> <ul style="list-style-type: none"> - <i>Has the child lived in any other country since his/her birth? If so, indicate the country and the length of time.</i> - <i>What is the child's citizenship?</i> <p>Comment 3: The form does not address the question of contacts between the prospective adoptive parent(s) and the child's birthparent(s) or any other person who has care of the child, which would be relevant to determine whether any contact occurred that would not be consistent with 22 CFR 97.3(j). Suggestion: Include a question on the description and timing of contact between the prospective adoptive parent(s) and the child's birthparent(s) or any other person who has care of the child.</p> <p>Comment 4: The form does not address whether the birth parent(s) or any other person who has care of the child has received a payment or any other incentive to induce its consent. Suggestion: Include a question on the description (amount and purpose) of payments received by the birth parent(s) or any other person who has care of the</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption, not by revising ADOPT-200, but by revising ADOPT-216 to include the court's determination that the adoption is subject to the convention.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption, not by revising ADOPT-200, but by revising ADOPT-216 to include the court's determination that the adoption is subject to the convention.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption, not by revising ADOPT-200, but by revising ADOPT-216 to</p>

W13-07**Family Law: Rules and Forms for Domestic and Intercountry Adoptions**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			child.	include the court's determination that the adoption is subject to the convention.